

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 OF LAW  
IN SUPPORT OF MOTION  
FOR SUMMARY JUDGMENT****INTRODUCTION**

We should send a clear signal to the legislature that this type of act will not be condoned in the future. Garbage or Christmas tree bills appear to be a direct, cynical violation of our constitution \* \* \*. It is clear to me that 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.

\* \* \* We should publicly warn the legislature that if it does hereafter enact legislation similar to Chapter 13, which clearly violates Minn. Const. art IV, § 17, we will not hesitate to strike it down regardless of the consequences to the legislature, the public, or the courts generally.

*Associated Builders & Contractors v. Ventura*, 610 N.W.2d 293, 301-02 (Minn. 2000) (“ABC”) (quoting *State ex rel. Mattson v. Kiedrowski*, 391 N.W.2d 777, 785 (Minn. 1986) (Yetka, J., concurring). In *Mattson*, Justices Yetka and Simonett were concerned about an omnibus bill that spanned only 273 pages and had 378 sections. 391 N.W.2d at 784 (Yetka, J.).

We say “only” because now, thirty-eight years after Justice Yetka’s clarion call, the Legislature gave birth to H.F. 5247-4 (Chapter 127; the “Jumbo Omnibus Bill”),<sup>1</sup> whose hulking 1,400-plus pages, 73 articles, 1342 sections, and at least *thirteen* discrete subjects make one nostalgic for the time when omnibus bills numbered only hundreds of pages and sections long. *E.g. Mattson*, 391 N.W.2d at 784 (Yetka, J., concurring) (noting the law “contains 378 sections and is 273 pages long”). But “now all bounds of reason and restraint seem to have been abandoned” and “the worm that was merely vexatious in the [20]th century has become a monster eating the constitution in the 2[1st].” *Id.*

The Legislature has not heeded the Supreme Court’s repeated warnings over the past forty years. *E.g., id.* at 785; *Blanch v. Suburban Hennepin Regional Park District*, 449 N.W.2d 150, 155 (Minn. 1989) (“we do not address the parties’ suggestion that if a bill contains more than one subject, only that provision under attack should be declared unconstitutional; nevertheless, we are constrained to observe that since it is the presence of more than one subject which renders a bill constitutionally infirm, it appears to us at this time unlikely that any portion of such a bill could survive constitutional scrutiny.”); *id.* at 155 (Yetka, J., concurring) (“Since it now appears that the majority opinion adopts the position of my concurrence in *Mattson* (in which Justice Simonett joined), I am content to affirm this case. The legislature hereafter has full notice of the consequences of overstepping constitutional limitations in its drafting of omnibus bills.”); *ABC*, 610 N.W.2d at 298 (observing that the court of appeals “noted this court’s repeated warnings to the legislature that omnibus bills were at high risk of running afoul of the single subject and title constitutional requirements”); *Otto v. Wright Cnty.*, 910 N.W.2d 446, 459 (Minn. 2018) (“We remain firmly committed to our constitutional duty ‘to prohibit infringements by either the legislative or

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<sup>1</sup> See Affidavit of James Dickey (“Dickey Aff.”) ¶2 (Chapter 127—H.F. No. 5247, Session Laws).

executive branch of the government of [the] constitutional rights vested in the people.’ *Mattson*, 391 N.W.2d at 785 (Yetka, J., concurring). We trust that the Legislature has heard, and will heed, these warnings.”). The Jumbo Omnibus Bill is a direct affront to the Constitution’s Single Subject and Title Clause and a flagrant disregard for the Supreme Court’s warnings.

The oft-repeated reasons for the Single Subject and Title Clause are clear. First, article IV, section 17 exists: “to prevent what is called ‘logrolling legislation’ or ‘omnibus bills,’ by which a number of different and disconnected subjects are united in one bill, and then carried through by a combination of interests.” *Johnson v. Harrison*, 50 N.W. 923, 924 (Minn. 1891); *see also State v. Cassidy*, 22 Minn. 312, 322 (1875) (describing Section 17’s purpose as “to secure to every distinct measure of legislation a separate consideration and decision, dependent solely upon its individual merits.”). Second, it is designed ““to prevent surprise and fraud upon the people and the legislature’ by failing to provide notice of ‘the nature of the proposed legislation’ and the ‘interests likely to be affected’ by the legislation.” *Otto*, 910 N.W.2d at 456 (quoting *Johnson*, 50 N.W. at 924).

Plaintiff Minnesota Gun Owners Caucus (“MGOC”) asks this Court to follow the Supreme Court’s repeated warnings and put an end to the Legislature’s repeated abuse of the omnibus practice that has culminated in this egregious case. There is no constitutional ground on which the Legislature or the Governor could criminalize possession of certain triggers for firearms in a tax bill. And likewise, no county attorney or commissioner can enforce such an unconstitutional law.

Because this case hinges on an entirely public record, for which no further fact development is appropriate, the Court should “send a clear signal to the legislature that this type of act will not be condoned in the future” and grant MGOC’s motion for summary judgment. In doing so, the Court should invalidate the Jumbo Omnibus Bill in its entirety, *Mattson*, 391 N.W.2d at 785 (Yetka, J., concurring, joined by Simonett, J.), or at least strike Article 36 of the bill.

## STATEMENT OF THE ISSUES

1. Whether the Jumbo Omnibus Bill violates Article IV, Section 17 of the Minnesota Constitution.
2. Whether, because the Jumbo Omnibus Bill is unconstitutional, it must be enjoined and struck in its entirety, or whether its Article 36, or at minimum Section 2 of Article 36, should be enjoined and struck.

## DOCUMENTS COMPRISING THE RECORD

- A. Complaint;
- B. Affidavit of Bryan Strawser;
- C. Affidavit of James Dickey with paragraphs 1-31 and exhibits 1-9;<sup>2</sup>
- D. Public records cited herein and in the affidavits;
- E. Other documents which may be filed by the parties.

## STATEMENT OF UNDISPUTED MATERIAL FACTS

### **The Minnesota Legislature passed the Jumbo Omnibus Bill at midnight on the final day bills could be passed in 2024**

H.F. 5247 (Chapter 127; the “Jumbo Omnibus Bill”),<sup>3</sup> is an ungainly combination of nine, originally distinct, other omnibus bills:

1. Transportation, Housing, and Labor Omnibus, H.F. 5242 (CCR-HF5242A); *compare with Jumbo Omnibus Bill, Articles 1-17.*<sup>4</sup>

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<sup>2</sup> Each public record referenced in the Dickey Affidavit which was reported by the Minnesota Revisor’s website sets forth matters observed pursuant to the Revisor’s duty imposed by law as to which matters there was a duty to report, and also records the activities of the Minnesota Legislature. Minn. R. Evid. 803(8); Minn. Stat. ch. 3C; *see also Revisor’s Office Duties*, Office of the Revisor of Statutes, <https://www.revisor.mn.gov/office/duties/legis>. Likewise, each public record reported by the Minnesota House Public Information Services Office records the activities of the House. Minn. R. Evid. 803(8); *see also* <https://www.house.mn.gov/hinfo/aboutinfo.asp>. And each public record reported by the Minnesota Senate Information Office or the Minnesota Senate records the activities of the Senate. Minn. R. Evid. 803(8); *see also Minnesota Senate*, <https://www.senate.mn/>; *Senate Information Office*, Minnesota State Senate, <https://www.senate.mn/departments/info>.

<sup>3</sup> Dickey Aff. ¶2.

<sup>4</sup> Dickey Aff. ¶9 (CCR-HF5242A); *compare with Dickey Aff. ¶2* (pp. 6-228).

2. Health Omnibus, H.F. 4247 (CCR-HF4247A); *compare with* Jumbo Omnibus Bill, Articles 18-33;<sup>5</sup>
3. Higher Education Omnibus, H.F. 4024 (CCR-HF4024); *compare with* Jumbo Omnibus Bill, Articles 34-35;<sup>6</sup>
4. Firearms Provisions, H.F. 2609 (CCR-HF2609); *compare with* Jumbo Omnibus Bill, Article 36;<sup>7</sup>
5. Energy and Agriculture Omnibus, S.F. 4942 (CCR-SF4942); *compare with* Jumbo Omnibus Bill, Articles 37-45;<sup>8</sup>
6. Human Services Omnibus, S.F. 5335 (CCR-SF5335); *compare with* Jumbo Omnibus Bill, Articles 46-53;<sup>9</sup>
7. Health and Human Services Omnibus, S.F. 4699 (CCR-SF4699); *compare with* Jumbo Omnibus Bill, Articles 54-67;<sup>10</sup>
8. Tax Omnibus, H.F. 5247 (CCR-HF5247); *compare* Articles 68-72 *with* Jumbo Omnibus Bill, Articles 68-72;<sup>11</sup>
9. Paid Leave Omnibus, H.F. 5363 (4th Engrossment); *compare with* Jumbo Omnibus Bill, Article 73.<sup>12</sup>

The Legislature used the Tax Omnibus Bill (H.F. 5247) as its vehicle to combine the nine omnibus bills into the Jumbo Omnibus Bill.<sup>13</sup>

<sup>5</sup> Dickey Aff. ¶10 (CCR-HF4247A); *compare with* Dickey Aff. ¶2 (pp. 228-393).

<sup>6</sup> Dickey Aff. ¶11 (CCR-HF4024); *compare with* Dickey Aff. ¶2 (pp. 394-434).

<sup>7</sup> Dickey Aff. ¶12 (CCR-HF2609); *compare with* Dickey Aff. ¶2 (pp. 435-437).

<sup>8</sup> Dickey Aff. ¶13 (CCR-SF4942); *compare with* Dickey Aff. ¶2 (pp. 437-564).

<sup>9</sup> Dickey Aff. ¶14 (CCR-SF5335); *compare with* Dickey Aff. ¶2 (pp. 564-712).

<sup>10</sup> Dickey Aff. ¶15 (CCR-SF4699); *compare with* Dickey Aff. ¶2 (pp. 712-986).

<sup>11</sup> Dickey Aff. ¶16 (CCR-HF5247) (pp.1334-1375); *compare with* Dickey Aff. ¶2 (pp. 986-1016).

<sup>12</sup> Dickey Aff. ¶17 (H.F. 5363, 4th Engrossment); *compare with* Dickey Aff. ¶2 (pp. 1017-1053).

<sup>13</sup> See Dickey Aff. ¶28 (Minn. H., 93rd Minn. Leg., Journal of the House, 119th Day, Sunday, May 19, 2024) (pp. 18,590-91: noting delete-everything amendment to H.F. No. 5247 recommended by undersigned conferees for H.F. 5247: “delete everything after the enacting clause and insert” the contents of the other nine omnibus bills; pp. 19,605-06: noting the prevailing motion for the adoption of the Conf. Comm. Report on H.F. 5247 and its repassage as amended by the Conference Committee). See also Dickey Aff. ¶27 (Conference Committee on H.F. No. 5247, Delete Everything Amendment); Dickey Aff. Ex. 9 (Conf. Comm. Activity H.F. 5247, 93rd Leg. (Minn. 2024)).

On May 19, 2024—the last day of the 2024 legislative session in which bills could be passed<sup>14</sup> because the session ended on May 20—the 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 (“CCR-HF5247”) that combined the nine originally distinct omnibus bills into what would become the Jumbo Omnibus Bill.<sup>15</sup> The CCR-HF5247 was not posted until 10:49 PM, and its title still read “[a] bill for an act relating to taxation....”<sup>16</sup>

The House took up CCR-HF5247 shortly thereafter, adopted the conference committee report’s recommended changes, and passed the bill at approximately 11:14 PM, with a 70-50 vote along party lines.<sup>17</sup>

Notably, after adopting and passing the CCR-HF5247, the House immediately took up the Conference Committee Report on S.F. 4942 (CCR-SF4942) followed by the Conference Committee Report on S.F. 5335 (CCR-SF5335).<sup>18</sup> But the contents of both CCR-SF4942 and CCR-SF5335 had just been adopted and passed as part of CCR-HF5247.<sup>19</sup> Nonetheless, the House adopted and passed the Conference Committee Reports on S.F. 4942 and S.F. 5335, appearing to show that at least some House members were not even aware that they had just adopted and passed the contents of those omnibus bills as part of CCR-HF5247.

Before the House adjourned on May 19, 2024, 58 members of the House, pursuant to article IV, section 11 of the Minnesota Constitution, registered their “protest and dissent against Speaker

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<sup>14</sup> Minn. Const. art. IV, §21.

<sup>15</sup> See Dickey Aff. Ex. 9 (Conf. Comm. Activity H.F. 5247, 93rd Leg. (Minn. 2024)); Dickey Aff. ¶4 (Conf. Comm. meeting on HF 5247 (May 19, 2024)); Dickey Aff. ¶5 (CCR-HF5247).

<sup>16</sup> Dickey Aff. ¶5 (CCR-HF5247); Dickey Aff. Ex. 2 (Conf. Comm. Reports for 93rd Legislature).

<sup>17</sup> Dickey Aff. Ex. 3; Dickey Aff. ¶8 (House Floor Session); *see also supra* n.13.

<sup>18</sup> See Dickey Aff. ¶28 (Minn. H., 93rd Minn. Leg., Journal of the House, 119th Day, Sunday, May 19, 2024) (pp. 19,606 – 19,608 (S.F. 4942) & pp. 19,608 – 19,752 (S.F. 5335)).

<sup>19</sup> See *supra* nn.8 (CCR-SF4942) & 9 (CCR-SF5335).

Melissa Hortman for her actions that violated dozens of rules and procedures of the House, flagrantly abused the legislative process, stifled the voices of the minority, and has permanently damaged the institution of the House of Representatives.”<sup>20</sup> The protest and dissent stated, in part:

On Sunday, May 19th Speaker Hortman brought before the House a conference committee report on House File 5242 [sic], **an omnibus conference committee report totaling more than 1400 pages that included the contents of nine other conference committee reports in violation of House and Joint Rules.**

Speaker Hortman flagrantly defied the Rules of the House, willfully and repeatedly ignoring proper motions, including numerous privileged motions. Her actions were autocratic and unprecedented.<sup>21</sup>

The House adjourned on May 19 after approximately 12 hours of being in session.<sup>22</sup>

After receiving CCR-HF5247 from the House, the Senate took it up at approximately 11:36 PM,<sup>23</sup> adopted the conference committee report’s recommended changes, and passed the bill at approximately 11:42 PM,<sup>24</sup> with a 34-14 vote along party lines.<sup>25</sup>

On May 20, CCR-HF5247, which was adopted and passed by the Legislature, was rendered into its 4th Engrossment (“H.F. 5247-4”), the final version of the Jumbo Omnibus Bill.<sup>26</sup>

<sup>20</sup> Dickey Aff. ¶28 (Minn. H., 93rd Minn. Leg., Journal of the House, 119th Day, Sunday, May 19, 2024) (pp. 19,807 – 19,808).

<sup>21</sup> *Id.* (emphasis added).

<sup>22</sup> House Television Archives 2023 - 2024 - House Floor Session Archives, [https://www.house.mn.gov/htv/archivesHFS.asp?ls\\_year=93](https://www.house.mn.gov/htv/archivesHFS.asp?ls_year=93) (last accessed April 7, 2025) (the May 19, 2024, House floor session is broken up into 6 videos totaling over 12 hours).

<sup>23</sup> Dickey Aff. Ex. 4.

<sup>24</sup> Dickey Aff. Ex. 5.

<sup>25</sup> Dickey Aff. ¶29 (Minn. S., 93rd Minn. Leg., Journal of the Senate, 119th Day, Sunday, May 19, 2024, pp. 18,844-20,021) (pp. 18,844-45: noting amendment to H.F. No. 5247 recommended by undersigned conferees for H.F. No. 5247: “delete everything after the enacting clause and insert” the contents of the other nine omnibus bills; pp. 20,020-21: noting the prevailing motion for the adoption of the Conference Committee Report on H.F. No. 5247 and its repassage as amended by the Conference Committee); *see also* Dickey Aff. ¶27 (H.F. 5247 Delete Everything Amendment).

<sup>26</sup> Dickey Aff. ¶25 (H.F. 5247-4); *compare with* Dickey Aff. ¶2 (Chapter 127, H.F. No. 5247); *see also* Dickey Aff. Ex. 7 (H.F. 5247 version list).

On May 24, 2024, Governor Walz signed the Jumbo Omnibus Bill into law.<sup>27</sup>

**The Jumbo Omnibus Bill contains nine standalone omnibus bills,  
and even within those omnibus bills are more than one subject**

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 on laws passed by the Legislature: (1) that every law must embrace only one subject (the “Single Subject Clause”), and (2) that the single subject of every law must be expressed in the law’s title (the “Title Clause”).

The Minnesota Revisor’s Office assists the Legislature with drafting bills, Minn. Stat. §3C.03, subd. 2, and maintains a drafting manual “containing styles and forms for drafting bills, resolutions, and amendments” to assist the Legislature with the drafting process, *id.*, subd. 4.<sup>28</sup> The latest edition of the Minnesota Revisor’s Manual is the 2013 Edition (“Revisor’s Manual”).<sup>29</sup> The Minnesota Revisor’s Office also assists in the enrollment and engrossment of bills. Minn. Stat. §3C.04, subd. 5.

According to Joint Rule 2.01 of the Temporary Joint Rules of the Senate and House of Representatives 93rd Legislature (2023-2024),<sup>30</sup> “The title of each bill shall clearly state its subject and briefly state its purpose.” According to the Minnesota Revisor’s Manual, “The general subject required by Joint Rule 2.01 almost always begins ‘relating to....’”<sup>31</sup>

As noted above, *nine* separate omnibus bills were slapped together to make up the Jumbo Omnibus Bill. And following the convention identified in the Minnesota Revisor’s Manual, each of

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<sup>27</sup> Dickey Aff. Ex. 7 (H.F. 5247 version list).

<sup>28</sup> *See also* Dickey Aff. Ex. 8 (Minnesota Revisor’s Duties).

<sup>29</sup> Dickey Aff. ¶20.

<sup>30</sup> Dickey Aff. ¶21.

<sup>31</sup> Dickey Aff. ¶20 (Ch. 2(2.5)(c)(2)).

these nine contained their *own* general subject, as expressed in their original respective titles:<sup>32</sup>

1. Transportation, Housing, and Labor Omnibus, H.F. 5242 (CCR-HF5242A): “relating to state government”;<sup>33</sup>
2. Health Omnibus, H.F. 4247 (CCR-HF4247A): “relating to health”;<sup>34</sup>
3. Higher Education Omnibus, H.F. 4024 (CCR-HF4024): “relating to higher education”;<sup>35</sup>
4. Firearms Provisions, H.F. 2609 (CCR-HF2609): “relating to public safety”;<sup>36</sup>
5. Energy and Agriculture Omnibus, S.F. 4942 (CCR-SF4942): “relating to state government”;<sup>37</sup>
6. Human Services Omnibus, S.F. 5335 (CCR-SF5335): “relating to human services”;<sup>38</sup>
7. Health and Human Services Omnibus, S.F. 4699 (CCR-SF4699): “relating to state government”;<sup>39</sup>
8. Tax Omnibus, H.F. 5247 (CCR-HF5247): “relating to taxation”;<sup>40</sup>
9. Paid Leave Omnibus, H.F. 5363 (4th Engrossment): “relating to employees.”<sup>41</sup>

And according to the convention identified in the Minnesota Revisor’s Manual, when both houses of the Legislature adopted and passed CCR-HF5247, the title still read “[a] bill for an act relating to taxation....”<sup>42</sup>

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<sup>32</sup> The subjects listed are from the versions of the bills incorporated into the Jumbo Omnibus Bill.

<sup>33</sup> Dickey Aff. ¶9. As introduced, the texts of both the House and Senate files had the general subject “relating to transportation.”

<sup>34</sup> Dickey Aff. ¶10.

<sup>35</sup> Dickey Aff. ¶11.

<sup>36</sup> Dickey Aff. ¶12.

<sup>37</sup> Dickey Aff. ¶13.

<sup>38</sup> Dickey Aff. ¶14.

<sup>39</sup> Dickey Aff. ¶15. As introduced, the texts of both the House (H.F. 4571) (<https://www.revisor.mn.gov/bills/bill.php?f=HF4571&y=2024&ssn=0&b=house>) and Senate files (<https://www.revisor.mn.gov/bills/bill.php?b=Senate&f=SF4699&ssn=0&y=2024>) had the general subject “relating to health.”

<sup>40</sup> Dickey Aff. ¶16.

<sup>41</sup> Dickey Aff. ¶17.

<sup>42</sup> Dickey Aff. ¶5 (CCR-HF5247); Dickey Aff. ¶28 (Minn. H., 93rd Minn. Leg., Journal of the House, 119th Day, Sunday, May 19, 2024) (*see* pp. 18,590-91); Dickey Aff. ¶29 (Minn. S., 93rd Minn. Leg., Journal of the Senate, 119th Day, Sunday, May 19, 2024) (*see* pp. 18,844-45).

After the Legislature passed CCR-HF5247 on May 19, the bill was engrossed into its 4th Engrossment (H.F. 5247-4) on May 20.<sup>43</sup> During the engrossment process, the Jumbo Omnibus Bill's title was redrafted to state its title as "relating to the operation and financing of state government."<sup>44</sup> The revisor's office assists in the enrollment and engrossment of bills. Minn. Stat. §3C.04, subd. 5. Minnesota law does *not* appear to authorize the revisor's office to redraft the title of an enacted bill. *See id.* ("In preparing an engrossment or enrollment, the revisor may correct misspelled words and other minor clerical errors. No correction of this kind constitutes an alteration or departure from the text as shown in the journals of the senate and house of representatives.")<sup>45</sup>

All told, the Jumbo Omnibus Bill, made up of *nine* discrete omnibus bills, contains 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 (Article 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).<sup>46</sup>

Prior to its inclusion in the Jumbo Omnibus Bill, Article 36 of the Jumbo Omnibus Bill was H.F. 2609.<sup>47</sup> Article 36 and CCR-HF2609 (the last version) contain the same three sections, all of

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<sup>43</sup> *See* Dickey Aff. Ex. 7; Dickey Aff. ¶25 (H.F. 5247-4).

<sup>44</sup> Dickey Aff. ¶2. Even this is fundamentally flawed. The Minnesota Revisor's Manual states that "The drafter should avoid using a compound noun as the general subject. For example, do not use 'relating to X and Y.' Instead, choose a single broad term as the general subject." Dickey Aff. ¶20 (Ch. 2(2.5)(d)(1)).

<sup>45</sup> *See also* Dickey Aff. ¶20 (Revisor's Manual) (Ch. 5.1) ("Personnel engaged in engrossing are bound by the amendments adopted, and anything more than minor adjustments by them may raise a question of *whether or not the purported text was agreed to by the legislature.*") (emphasis added).

<sup>46</sup> *See* Dickey Aff. ¶2.

<sup>47</sup> Dickey Aff. ¶12; *compare with* Dickey Aff. ¶2 (pp. 435-37).

which relate to firearms.

Section 1 amends the commissioner of public safety's "report on how funds appropriated for violent crime reduction strategies were used" in Minn. Stat. §299A.642, subd. 15. Section 1 went into effect on August 1, 2024.<sup>48</sup>

Section 3 amends the punishments for transferring certain firearms to ineligible persons and provides for an affirmative defense for such crime in Minn. Stat. §624.7141. Section 3 went into effect on August 1, 2024.<sup>49</sup>

Section 2 (the "Binary Trigger Amendment") amends the definition of "trigger activator" in Minn. Stat. §609.67, subd. 1(d), to include the following: "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."<sup>50</sup> The Binary Trigger Amendment expands the definition of "trigger activator" to include what is known as "binary triggers."<sup>51</sup>

Minn. Stat. §609.67, subd. 2(a) states, in relevant part, that "whoever owns, possesses, or operates ... any trigger activator ... may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$35,000, or both."

The only relevant exception to Minn. Stat. §609.67, subd. 2(a) is found in Minn. Stat. §609.67, subd. 5. Section 609.67, subdivision 5 states that "[t]his section does not apply to members of the armed services of either the United States or the state of Minnesota for use in the course of their duties or to security guards employed by the Minnesota National Guard for use in accordance with applicable federal military regulations."

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<sup>48</sup> Dickey Aff. ¶2 (*see* p. 435); Minn. Stat. §645.02.

<sup>49</sup> Dickey Aff. ¶2 (*see* pp. 436-37).

<sup>50</sup> Dickey Aff. ¶2 (*see* pp. 435-36).

<sup>51</sup> *See generally* Strawser Aff.

The Binary Trigger Amendment went into effect on January 1, 2025.<sup>52</sup>

**The Jumbo Omnibus Bill affects the interests of Plaintiff MGOC and its members.**

The Minnesota Gun Owners Caucus is a Minnesota non-profit corporation and a 501(c)(4) social welfare non-profit organization.<sup>53</sup> Its registered office and principal place of business is in Ramsey County, Minnesota, but its members reside across the State of Minnesota.<sup>54</sup>

MGOC advocates on behalf of its members to defend and restore the right to keep and bear arms.<sup>55</sup> As part of its mission, MGOC tracks all current legislation in Minnesota related to gun rights and related issues and informs the public of new pro- and anti-gun legislation on its Facebook and “X” (formerly known as “Twitter”) accounts, as well as through other media.<sup>56</sup> 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.<sup>57</sup>

After the Jumbo Omnibus Bill’s enactment, because it was concerned with the inclusion of the Binary Trigger Amendment in Article 36, section 2, MGOC publicly called for its members and supporters who own binary triggers, or firearms with binary triggers installed, to respond to MGOC.<sup>58</sup> More than 20 MGOC members and supporters responded to this public call.<sup>59</sup> Many MGOC members and supports are affected by the Binary Trigger Amendment of the Jumbo Omnibus Bill.<sup>60</sup> They include three pseudonymous members and supporters who do not wish to be

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<sup>52</sup> Dickey Aff. ¶2 (see p. 436).

<sup>53</sup> Strawser Aff. ¶2.

<sup>54</sup> *Id.*

<sup>55</sup> Strawser Aff. ¶4.

<sup>56</sup> Strawser Aff. ¶5.

<sup>57</sup> Strawser Aff. ¶7.

<sup>58</sup> Strawser Aff. ¶22.

<sup>59</sup> Strawser Aff. ¶23.

<sup>60</sup> Strawser Aff. ¶24.

identified by name for fear of reprisal.<sup>61</sup>

- Member A, identified in ¶18a of the Complaint, 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 January 1, 2025.<sup>62</sup>
- Member B, identified in ¶18b of the Complaint, 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 January 1, 2025.<sup>63</sup>
- Member C, identified in ¶18c of the Complaint, 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 January 1, 2025.<sup>64</sup>

The Jumbo Omnibus Bill affects the interests of MGOC and its members by expanding the definition of a trigger activator to include binary triggers without any grandfather-clause provision protecting those previously lawfully in possession of binary triggers.<sup>65</sup> The Binary Trigger Amendment threatens MGOC members and supporters with felony crimes for the mere possession of uninstalled binary triggers, the purchase of which was lawful just a few months ago.<sup>66</sup>

MGOC understands that its members who are currently in possession of binary triggers, as defined by the Binary Trigger Amendment, do not meet the requirements of the exceptions listed in Minn. Stat. §609.67, subd. 5.<sup>67</sup> The MGOC also has members who were previously in lawful possession of binary triggers, as they are defined by the Binary Trigger Amendment.<sup>68</sup> There is no

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<sup>61</sup> *Id.*

<sup>62</sup> Strawser Aff. ¶25.

<sup>63</sup> Strawser Aff. ¶26.

<sup>64</sup> Strawser Aff. ¶27.

<sup>65</sup> Strawser Aff. ¶¶30-34.

<sup>66</sup> Strawser Aff. ¶¶15, 28.

<sup>67</sup> Strawser Aff. ¶30.

<sup>68</sup> Strawser Aff. ¶31.

provision in the Jumbo Omnibus Bill that grants or could provide MGOC members who were in lawful possession of binary triggers, as defined by the Binary Trigger Amendment, with any form of exemption or waiver from the prohibitions listed in Minn. Stat. §609.67, subd. 2(a).<sup>69</sup>

With the exception of those listed in Minn. Stat. §609.67, subd. 5, there is no other provision in the Minnesota Statutes that grants or could provide MGOC members who were in lawful possession of binary triggers, as defined by the Binary Trigger Amendment, with any form of exemption or waiver from the prohibitions listed in Minn. Stat. §609.67, subd. 2(a).<sup>70</sup> Therefore, as of the Binary Trigger Amendment's effective date—January 1, 2025—those MGOC members who are currently in possession of binary triggers, as defined by the Binary Trigger Amendment, but who do not meet the exceptions listed in Minn. Stat. §609.67, subd. 5, are credibly threatened with potential felony prosecution under Minn. Stat. §609.67, subd. 2(a).<sup>71</sup> These members are grievously harmed by the Binary Trigger Amendment, and MGOC advocates on their behalf.<sup>72</sup>

MGOC's members who merely own or possess binary triggers face a credible threat of prosecution by the Defendants due to the Binary Trigger Amendment:

- County Attorney Moriarty enforces Minn. Stat. §609.67 pursuant to Minn. Stat. §388.051, subd. 1(3) ("prosecute felonies").
- Attorney General Ellison may prosecute felonies as requested by County Attorney Moriarty and if requested by the governor, pursuant to Minn. Stat. §8.01. And Governor Walz has made threats of enforcement of the Binary Trigger Amendment.<sup>73</sup>
- 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.*

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<sup>69</sup> *Id.*

<sup>70</sup> Strawser Aff. ¶31.

<sup>71</sup> Strawser Aff. ¶32.

<sup>72</sup> Strawser Aff. ¶33.

<sup>73</sup> *See* Dickey Aff. Ex. 6.

MGOC itself is harmed by the Jumbo Omnibus Bill because of MGOC's opposition to the Binary Trigger Amendment, the criminalization of previously lawful firearm component ownership that is contrary to MGOC's mission, and the potentially serious negative consequences for many MGOC members who lawfully purchased binary triggers before January 1, 2025. Those serious consequences include the chilling of MGOC members' rights to possess firearms under the United States Constitution, MGOC members' loss of liberty and property threatened by prosecution of binary-trigger possession by the Defendants, confiscation of MGOC members' binary triggers by the Defendants, and MGOC members' loss of their ability to contribute and support MGOC because of criminal prosecution and confiscation of their property or the credible threats thereof.<sup>74</sup>

MGOC brought this lawsuit because the Jumbo Omnibus Bill harms its and its members' interests by subjecting individual Minnesotans to potential criminal charges thrown into a bill purporting to legislate numerous subjects, including taxation, abortion coverage, mixed martial arts regulation, Uber and Lyft drivers and riders, and so on.<sup>75</sup>

### LEGAL STANDARD

A challenge to the constitutionality of a law under article IV, section 17 of the Minnesota Constitution presents a question of law that a court may properly resolve on summary judgment. *See Unity Church v. State*, 694 N.W.2d 585, 591 (Minn. Ct. App. 2005).

Under Minnesota Rule of Civil Procedure 56.01, "[t]he court shall grant summary judgment if the movant shows that there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law." "A genuine issue of material fact exists when reasonable minds can draw different conclusions from the evidence presented." *Rygwall v. ACR Homes, Inc.*, 6

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<sup>74</sup> Strawser Aff. ¶35.

<sup>75</sup> Strawser Aff. ¶¶13, 43.

N.W.3d 416, 427 (Minn. 2024) (citing 328 *Barry Ave., LLC v. Nolan Props. Grp., LLC*, 871 N.W.2d 745, 751 (Minn. 2015)). There is no issue of fact on this almost entirely public record.

The court presumes the constitutionality of Minnesota laws, and the challenger bears the burden of proving beyond a reasonable doubt that a law is unconstitutional. *ABC*, 610 N.W.2d at 299 (citations omitted). There is no doubt here.

### ARGUMENT

There is zero reasonable doubt that the Jumbo Omnibus Bill violates the Single Subject and Title Clause of article IV, section 17 of the Minnesota Constitution (hereinafter, “Section 17”). Its staggering 1,400-plus pages, *nine* separate constituent omnibus bills, and at least *thirteen* subjects blatantly transgress Section 17. Justice Yetka, joined by Justice Simonett, wrote his blistering concurrence in *Mattson* concerned about a single omnibus bill that spanned only 278 pages. *Mattson*, 391 N.W.2d at 784 (Yetka, J., concurring). This 1,400-plus-page Frankenstein’s monster dwarfs the subject of his concern and multiplies his nightmare.

The only real question for the Court is whether to strike the Jumbo Omnibus Bill down in its entirety or only Article 36. MGOC believes the whole thing must go because, as the Court in *ABC* held, it only severed the prevailing wage law from the rest of that tax law because the prevailing wage law was unrelated to the otherwise “common theme” of the law. 610 N.W.2d at 307. In fact, the *ABC* Court twice said that its severance holding was based on there *being* a “common theme,” and that theme must be “clearly defined by its other provisions.” *Id.* It follows that if the Legislature engages in what Justice Yetka rightly called a “direct, cynical violation of our constitution,” *Mattson*, 391 N.W.2d at 785 (Yetka, J., concurring), as here, and throws together myriad unrelated provisions, there is no “common theme,” and the proper remedy is to strike down the entire law.

But even if the Court is hesitant to prescribe that stronger medicine, the firearms provisions in Article 36 are quite obviously not germane to any other portion of the Jumbo Omnibus Bill. So

even if the whole bill is not struck, Plaintiff respectfully moves the Court to strike at least Article 36, related to firearms.

**I. MGOC Has Standing to Challenge the Constitutionality of the Jumbo Omnibus Bill.**

MGOC challenges the constitutionality of the Jumbo Omnibus Bill under article IV, section 17 of the Minnesota Constitution pursuant to the Minnesota Declaratory Judgment Act, Minn. Stat. §555.02 and Article I, section 8 of the Minnesota Constitution. MGOC has standing to bring its challenge under both provisions.

*First*, MGOC may proceed under the Declaratory Judgment Act. Minn. Stat. §555.02 states that “[a]ny person ... whose rights, status, or other legal relations are affected by a statute ... may have determined any question of construction or validity arising under the ... statute ... and obtain a declaration of rights, status, or other legal relations thereunder.” MGOC is a person under this statute. *See* Minn. Stat. §555.13 (“other corporation of any character”).

“[O]ne seeking a declaratory judgment regarding the constitutionality of a state statute must have a direct interest in the validity of that statute which is different in character from the interest of the citizenry in general.” *Arens v. Rogers*, 61 N.W.2d 508, 512 (Minn. 1953). MGOC has such a direct interest because it “itself is specifically harmed by the Binary Trigger Amendment because of MGOC’s opposition to the Binary Trigger Amendment, the criminalization of previously lawful firearm component ownership ... contrary to MGOC’s mission, and the potentially serious negative consequences for many MGOC members who lawfully purchased binary triggers.”<sup>76</sup>

MGOC also has associational standing. An organization may sue on behalf of its members if:

- (a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization’s purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.

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<sup>76</sup> Strawser Aff. ¶35.

*Minn. Voters All. v. Hunt*, 10 N.W.3d 163, 170 (Minn. 2024) (quoting *Hunt v. Wash. State Apple Advert. Comm'n*, 432 U.S. 333, 343 (1977), and citing *State by Humphrey v. Philip Morris, Inc.*, 551 N.W.2d 490, 498 (Minn. 1996) (deriving the Court’s approach to associational standing from *Hunt*)). MGOC meets these elements.

On the first element, MGOC’s members have standing to challenge the Jumbo Omnibus Bill in their own right. As alleged in the Complaint, and attested to in MGOC Chairman Bryan Strawser’s affidavit,<sup>77</sup> the Binary Trigger Amendment contained in Article 36 of the Jumbo Omnibus Bill directly affects the interests of MGOC’s members in their possession and ownership of binary triggers because it subjects MGOC’s members to imprisonment for up to 20 years or fine of up to \$35,000, or both, based on their mere ownership or possession of binary triggers.<sup>78</sup>

Even though MGOC’s members haven’t yet been prosecuted for owning or possessing binary triggers, the “‘preventative’ purpose of declaratory judgment actions,” *McCaughtry v. City of Red Wing*, 808 N.W.2d 331, 339 (Minn. 2011) (quoting *Petition for Improvement of Cnty. Ditch No. 86 v. Phillips*, 625 N.W.2d 813, 821 (Minn. 2001)), allows litigants bringing a pre-enforcement challenge “‘to be relieved of an uncertainty and insecurity arising out of an actual controversy’ with respect to their legal rights before those rights actually have been invaded.” *Id.* (quoting *Minneapolis Fed’n of Men Teachers, Local 238, AFL v. Bd. of Educ. of Minneapolis*, 56 N.W.2d 203, 205-06 (Minn. 1952)). The Binary Trigger Amendment credibly threatens MGOC members with prosecution. As such, their injury is ripe to be remedied by a declaration and injunction.

On the second element, MGOC’s purpose is to advocate on behalf of its members to defend and restore the right to keep and bear arms,<sup>79</sup> and the Binary Trigger Amendment’s expansion of

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<sup>77</sup> Strawser Aff. ¶¶22-34.

<sup>78</sup> *Id.*; Dickey Aff. ¶2 (see pp. 435-36); see also Minn. Stat. §609.67, subd. 2(a) (2024).

<sup>79</sup> E.g., Strawser Aff. ¶¶4-5, 15, 22, 24, 35.

the definition of a trigger activator to include “binary triggers” restricts gun-owners’ rights to bear arms. *See, e.g., Bevis v. City of Naperville*, 85 F.4th 1175 (7th Cir. 2023) (analyzing whether AR-15s with bump stocks or binary triggers are “Arms” under the Second Amendment).

On the third element, this lawsuit does not require MGOC members to participate directly. All MGOC members who own or possess a binary trigger are subject to potential prosecution by Defendants under the Binary Trigger Amendment. They would thus benefit the same from the requested remedy. *See Warth v. Seldin*, 422 U.S. 490, 515 (1975) (“If in a proper case the association seeks a declaration, injunction, or some other form of prospective relief, it can reasonably be supposed that the remedy, if granted, will inure to the benefit of those members of the association actually injured. Indeed, in all cases in which we have expressly recognized standing in associations to represent their members, the relief sought has been of this kind.” (citations omitted)). Thus, MGOC may bring a declaratory judgment action both directly and by association.

**Second**, MGOC may also proceed under Article I, section 8 of the Minnesota Constitution. The Minnesota Constitution provides a remedy for each right it guarantees. *Cruz-Guzman v. State*, 916 N.W.2d 1, 9 (Minn. 2018). It specifically provides a remedy to “rule on the Legislature’s noncompliance with a constitutional *mandate*.” *Id.* (emphasis added) “[W]henever [the Legislature] has clearly transcended [its constitutional] limitations,” the Minnesota Supreme Court has “held that ‘it is the duty of the judiciary to so declare.’” *Id.* at 10 (quoting *Rippe v. Becker*, 57 N.W. 331, 336 (Minn. 1894)). The Legislature has a “single subject *mandate*” to pass bills on only a single subject. *Blanch*, 449 N.W.2d at 154 (emphasis added); Minn. Const. art. IV, §17. The passage and enforcement of the Jumbo Omnibus Bill, including the Binary Trigger Amendment, violates that mandate. Under *Cruz-Guzman*, *Blanch*, and the Remedies Clause, MGOC may challenge

the constitutionality of the Jumbo Omnibus Bill in Minnesota courts and see it declared void, struck down, and enjoined.

## **II. The Jumbo Omnibus Bill Violates the Minnesota Constitution's Single Subject and Title Clause.**

The Single Subject and Title Clause states: “[n]o law shall embrace more than one subject, which shall be expressed in its title.” Minn. Const. art. IV, §17. There are two purposes for Section 17: **(1)** “to prevent what is called ‘logrolling legislation’ or ‘omnibus bills,’ by which a number of different and disconnected subjects are united in one bill, and then carried through by a combination of interests,” *Johnson v. Harrison*, 50 N.W. 923, 924 (Minn. 1891); *see also State v. Cassidy*, 22 Minn. 312, 322 (1875) (describing Section 17’s purpose as “to secure to every distinct measure of legislation a separate consideration and decision, dependent solely upon its individual merits.”), and **(2)** “‘to prevent surprise and fraud upon the people and the legislature’ by failing to provide notice of ‘the nature of the proposed legislation’ and the ‘interests likely to be affected’ by the legislation.” *Otto*, 910 N.W.2d at 456 (quoting *Johnson*, 50 N.W. at 924).

The Jumbo Omnibus Bill violates these principles, so it must be struck down.

### **A. The Jumbo Omnibus Bill contains multiple subjects.**

To determine whether a law violates Section 17, Minnesota courts apply the “germaneness” test. *Otto*, 910 N.W.2d at 458 (citing *ABC*, 610 N.W.2d at 300-01). The Minnesota Supreme Court has recently said that “[t]he concept of germaneness was captured best by Justice Mitchell”:

All that is necessary is that [the] act should embrace some one general subject; and by this is meant, merely, that all matters treated of should fall under some one general idea, be so connected with or related to each other, either logically or in popular understanding, as to be parts of, or germane to, one general subject .... All that is required is that the act should not include legislation so incongruous that it could not, by any fair intendment, be considered germane to one general subject.

*Otto*, 910 N.W.2d at 458 n.11 (quoting *Johnson*, 50 N.W. at 924).

The Jumbo Omnibus Bill plainly fails the germaneness test. Before becoming the 1,400-plus page behemoth that it is, the Jumbo Omnibus Bill was originally *nine* distinct omnibus bills, each of which had at least one respective general subject (and even more beyond those), *see* Undisputed Facts, *supra*, as expressed in each respective title:<sup>80</sup>

1. Transportation, Housing, and Labor Omnibus, H.F. 5242 (CCR-HF5242A): “relating to state government”;<sup>81</sup>
2. Health Omnibus, H.F. 4247 (CCR-HF4247A): “relating to health”;<sup>82</sup>
3. Higher Education Omnibus, H.F. 4024 (CCR-HF4024): “relating to higher education”;<sup>83</sup>
4. Firearms Provisions, H.F. 2609 (CCR-HF2609): “relating to public safety”;<sup>84</sup>
5. Energy and Agriculture Omnibus, S.F. 4942 (CCR-SF4942): “relating to state government”;<sup>85</sup>
6. Human Services Omnibus, S.F. 5335 (CCR-SF5335): “relating to human services”;<sup>86</sup>
7. Health and Human Services Omnibus, S.F. 4699 (CCR-SF4699): “relating to state government”;<sup>87</sup>
8. Tax Omnibus, H.F. 5247 (CCR-HF5247): “relating to taxation”;<sup>88</sup>
9. Paid Leave Omnibus, H.F. 5363 (4th Engrossment): “relating to employees.”<sup>89</sup>

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<sup>80</sup> The general subjects listed are from the versions of the bills incorporated into the Jumbo Omnibus Bill.

<sup>81</sup> Dickey Aff. ¶9. As introduced, the texts of both the House and Senate files had the general subject “relating to transportation.”

<sup>82</sup> Dickey Aff. ¶10.

<sup>83</sup> Dickey Aff. ¶11.

<sup>84</sup> Dickey Aff. ¶12.

<sup>85</sup> Dickey Aff. ¶13.

<sup>86</sup> Dickey Aff. ¶14.

<sup>87</sup> Dickey Aff. ¶15. As introduced, the texts of both the House (H.F. 4571) (<https://www.revisor.mn.gov/bills/bill.php?f=HF4571&y=2024&ssn=0&b=house>) and Senate files (<https://www.revisor.mn.gov/bills/bill.php?b=Senate&f=SF4699&ssn=0&y=2024>) had the general subject “relating to health.”

<sup>88</sup> Dickey Aff. ¶16.

<sup>89</sup> Dickey Aff. ¶17.

The Legislature used the Tax Omnibus (H.F. 5247) as its vehicle for the Jumbo Omnibus Bill,<sup>90</sup> and the Conference Committee Report on H.F. No. 5247 (CCR-HF5247), which was presented to both houses of the Legislature, stated its general subject as “relating to taxation.”<sup>91</sup> However, *after* it was passed by both houses, the title of the Jumbo Omnibus Bill in its 4th Engrossment was redrafted as “relating to the operation and financing of state government,” which is how it read when Governor Walz signed it into law.<sup>92</sup>

The Court should analyze the Jumbo Omnibus Bill’s germaneness with reference to the title *when it was passed by the Legislature* because this would accord with the dual purposes behind Section 17, which includes “prevent[ing] surprise and fraud upon ... the legislature.” *Otto*, 910 N.W.2d at 456. As argued below, the surprise/fraud on the Legislature vis-à-vis the title occurred at the time of the act’s passage, when both houses were presented a bill that failed to apprise them of the bill’s contents. And of course it was impossible for both houses to read through this massive omnibus bill in the final hour of the final day of the legislative session.

Considering CCR-HF5247’s titular subject—“relating to taxation”—most provisions of the Jumbo Omnibus Bill, including Article 36, obviously do not fall under this subject. And the Revisor of Statutes has no power to rewrite a passed law to “constitutionalize” its title. Minn. Stat. §3C.04, subd. 5 (“In preparing an engrossment or enrollment, the revisor may correct misspelled words and other minor clerical errors. No correction of this kind constitutes an alteration or departure from the text as shown in the journals of the senate and house of representatives.”). Only the Legislature can give a bill a title and pass the bill with such a title. Viewing the Jumbo Omnibus Bill under its declared title and subject when passed, it violates Section 17.

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<sup>90</sup> See Dickey Aff. Ex. 9 (Conf. Comm. Activity H.F. 5247); Dickey Aff. ¶¶27-29.

<sup>91</sup> Dickey Aff. ¶5.

<sup>92</sup> Dickey Aff. ¶25; *see also* Dickey Aff. ¶2.

But even if the Court considers the Jumbo Omnibus Bill’s general subject based on its post-passage rewrite (HF5272-4, the 4th Engrossment)—“the operation and financing of state government”—this general subject is either distinct from the numerous subjects in its nine constituent omnibus bills or so broad that it embraces more than one general subject. MGOC has counted 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 (Article 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).<sup>93</sup>

This is not the Legislature’s first rodeo: Minnesota courts have struck down laws under Section 17 at least twice in the last 25 years when the Legislature tried to lasso disparate subjects under a single general subject. For example, in *ABC*, the Minnesota Supreme Court held that a prevailing wage amendment was not germane to “the subject of tax relief and the ‘operation of state and local government.’” 610 N.W.2d at 302, 304. Then again, in *Unity Church v. State*, the court held that a provision relating to “handgun permitting and firearm regulation” was not germane to the general subject of “‘natural resources’ or ‘the environment.’” 694 N.W.2d at 595.

The same is true here, and *Unity Church* is especially on point. Among the many subjects detailed above, Article 36 of the Jumbo Omnibus Bill stands out as a particularly obvious sore thumb. Its heading in Article 36 of the Jumbo Omnibus Bill is, “**FIREARMS**,” and it relates *only* to “public safety,” as its originating bill, H.F. 2609, identified.<sup>94</sup> Article 36 effects three amendments: (1) it modifies the commissioner of public safety’s “report on how funds appropriated for

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<sup>93</sup> See Dickey Aff. ¶12 (2024 Minn. Laws ch. 127).

<sup>94</sup> Dickey Aff. ¶12 (CCR-HF2609, p.1).

violent crime reduction strategies were used” in Minn. Stat. §299A.642, subd. 15; (2) it modifies the definition of a trigger activator in Minn. Stat. §609.67, subd. 1(d), to include what is called a “binary trigger”; and (3) it modifies the punishments for transferring certain firearms to ineligible persons and provides for an affirmative defense for such crime in Minn. Stat. §624.7141.<sup>95</sup>

Plainly, Article 36 does not have even a single thread of spider’s silk to connect it to natural resources or the environment (Article 42, sections 1 and 50), taxes (Articles 68-71), health insurance coverage (Article 57), including mandatory coverage of abortion (Article 57, §39)<sup>96</sup>—or any of the other many subjects stuffed in the Jumbo Omnibus Bill. Nor is the subject of “**FIREARMS**” germane to the operation and financing of state government, which is on its face two subjects and was made up out of whole cloth after the bill’s passage in a desperate attempt to give the Jumbo Omnibus Bill some semblance of a single subject.

#### **B. The Jumbo Omnibus Bill perpetrated surprise and fraud upon the Legislature.**

In addition to failing the germaneness test by containing multiple, unconnected subjects, the Jumbo Omnibus Bill also violates Section 17 because the Legislature didn’t know what it contained when it passed it.

As detailed above in the Undisputed Facts, when the House and the Senate both took up the Jumbo Omnibus Bill on the night of May 19, its title still bore the subject “relating to taxation.” It wasn’t until the next day, *after* the Legislature passed CCR-HF5247, that the Omnibus Bill’s title was redrafted into its final form in the 4th Engrossment. Indeed, unlike the Jumbo Omnibus Bill’s final, multiple-page-and-subject-long title (contained in the 4th Engrossment, HF5247-4), the title to CCR-HF5247 is a breezy one-and-a-half pages that *only* lists tax-related amendments.<sup>97</sup> And

<sup>95</sup> Dickey Aff. ¶2 (see pp. 435-37); compare with Dickey Aff. ¶12 (CCR-HF2609, pp. 1-4).

<sup>96</sup> Dickey Aff. ¶2 (see pp. 488-89, 530-31, 759-60, 986-1014).

<sup>97</sup> Compare Dickey Aff. ¶2 (Jumbo Omnibus Bill) and ¶25 (H.F. 5247-4) with ¶5 (CCR-HF5247).

there is no possible way that any Legislative member could have apprised themselves of the full contents of the 1,400-plus-page Jumbo Omnibus Bill before their respective floor vote: the CCR-HF5247 was posted at 10:49 PM, and the House voted on it at 11:14 PM; the Senate took up CCR-HF5247 at 11:36 PM and passed it six minutes later at 11:42 PM.<sup>98</sup>

Further evidencing the House's ignorance of what was in CCR-HF5247, after the House passed it, the House then proceeded to take up two of the CCRs that were incorporated into CCR-HF5247: CCR-SF4942 and CCR-SF5335.<sup>99</sup> But the House had literally just passed the contents of these two CCRs in the body of CCR-HF5247. Had the House members known that everything in CCR-SF4942 and CCR-SF5335 was already in CCR-HF5247, they presumably would not have taken the time, after a marathon-long 12-hour session, to adopt and pass these two CCRs.

This is like the case of *State ex rel. Day v. Hanson*, 102 N.W. 209 (Minn. 1904). There, in December 1904, the Supreme Court invalidated a provision of a 1901 act which was reenacted in April 1903—*three years* after its original passage and more than a year and a half after its reenactment—because “[t]he situation fairly raises an inference that the legislators acted unadvisedly in the enactment of the provision in question, and that they were not informed of the subject of the provision by the title of the act.” *Id.* at 211. The same is true here: the House's independent passage of the two CCRs that were already included in an amendment it had just passed (CCR-HR5247) “fairly raises the inference” that the House members “were not informed of the subject of [CCR-HR5247's contents] by the title of the act” as it was presented in the report.

Therefore, the Jumbo Omnibus Bill violates Section 17's single-subject mandate because it both contains multiple, ungermane subjects and its title did not inform the Legislature of its

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<sup>98</sup> See *supra* nn.15-27.

<sup>99</sup> See *supra* nn.18-19.

contents when it passed it. It is quintessential “logrolling” and a fraud upon the Legislature and the people of Minnesota that Section 17 was expressly designed to prevent. *Otto*, 910 N.W.2d at 456; *Johnson*, 50 N.W. at 924.

**III. The Court Should Invalidate the Entirety of the Jumbo Omnibus Bill, or at Least Its Article 36, or at the Very Least Section 2 of Article 36.**

When a court holds that a law violates Section 17 by containing more than one subject, the Minnesota Supreme Court has recognized two remedies: (1) sever the challenged and non-germane provisions, or (2) invalidate the entire law when there is no “common theme” discernible. *See ABC*, 610 N.W.2d at 305 (“the court has the *option* of bringing the law into constitutional compliance by severing a provision that is not germane to the theme of the law” (emphasis added) (citing *Anderson v. Sullivan*, 75 N.W. 8, 9-10 (Minn. 1898))); *id.* (“Indeed it could well be argued that to hold the entire law unconstitutional, *when the great weight of the other provisions are so singularly related to the common theme* of tax relief and reform, would be overstepping our judicial bounds in disregard of the constitutional principle of separation of powers” (emphasis added) (citing *Koehnen v. Dufuor*, 590 N.W.2d 107, 113 (Minn. 1999))); *see also Hanson*, 102 N.W. at 210 (“In construing an act with reference to the constitutional provision, its substance should be considered, rather than its letter; and in determining the constitutionality of the act in question here it is necessary to consider the purpose and effect of the act.”); *Ek v. St. Paul Permanent Loan Co.*, 87 N.W. 844, 846 (Minn. 1901) (regarding the construction of Section 17, stating “in determining the purpose of a statute, we must look to all its parts, not merely the title.” (quoting *Lien v. Board of Co. Comm’rs.*, 82 N.W. 1094, 1096 (Minn. 1900))).

In other words, the *ABC* Court held that severance was an appropriate remedy when the other provisions of the law *actually related to a common theme*, but it did not say that remedy would be appropriate when there is *no way to discern a common theme*. So the Court can and should

strike the entire Jumbo Omnibus Bill as unconstitutional. But failing that, Article 36 related to public safety, and specifically firearms, should be invalidated.

**A. The Court should invalidate the entire Jumbo Omnibus Bill.**

The Jumbo Omnibus Bill is so motley with unrelated subjects that it lacks any general theme through which a mere filament could be threaded. Under these circumstances, invalidation of the entire act is a permissible remedy under the Supreme Court's jurisprudence. But even if the Court believes the Supreme Court has not gone that far, it should under the plain meaning of Section 17.

When a party challenges a law under Section 17, severance of the challenged provision is only the proper remedy “when the great weight of the other provisions are so singularly related to the common theme” of the law. *ABC*, 610 N.W.2d at 305 (citing *Koehnen*, 590 N.W.2d at 113); *Otto*, 910 N.W.2d at 456 (“Where the common theme of the law is clearly defined by its other provisions, a provision that does not have any relation to that common theme is not germane, is void, and may be severed.” (quoting *ABC*, 610 N.W.2d at 307)) (emphasis added). When a common theme of the law cannot be discerned by reference to its other provisions, that means “all matters treated of [do not] fall under some one general idea, [are not] so connected with or related to each other, either logically or in popular understanding, as to be parts of, or germane to, one general subject,” *id.* at 458 n.11 (quoting *Johnson*, 50 N.W. at 924), and the entire law is constitutionally infirm and should be invalidated.

The Jumbo Omnibus Bill's post-passage titular subject—“relating to the operation and financing of state government”—is a general (double) one, but its generality is “a cloak for legislating upon dissimilar matters” because the subjects it embraces in its constituent provisions are not “naturally connected with the subject expressed in the title,” *State ex rel. Finnegan v. Burt*, 29 N.W.2d

655, 657 (Minn. 1947) (quoting *Watkins v. Bigelow*, 100 N.W. 1104, 1108 (Minn. 1904)).<sup>100</sup> As discussed above with reference to the Jumbo Omnibus Bill’s constituent omnibus bills, the Jumbo Omnibus Bill contains 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 (Article 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).<sup>101</sup> There is no “common thread ... run[ning] through [these] various sections.” *Blanch*, 449 N.W.2d at 155.

When the Minnesota Supreme Court has found an act wanting for a general theme, it has invalidated the entire bill. That’s what the court did in *State v. Women’s & Children’s Hospital*, 173 N.W. 402 (Minn. 1919). There, the act’s title contained two subjects: the first related to “homeless and abandoned children as a class” and the second to “places where mothers from almost every walk of life are received and cared for during confinement.” *Id.* Following the plain language of the Constitution, the court applied the “well settled” rule “that where the title to an act actually indicates, and the act itself actually includes, two distinct objects where the Constitution declares it shall embrace but one, the whole act must be treated as void.” *Id.* (citations omitted). So the Court voided the entire act.

This case is just like *Women’s & Children’s Hospital* in relevant part. Because there are *so many* subjects in the Jumbo Omnibus Bill, when this Court decides to try to discern what the

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<sup>100</sup> It’s even worse for the State if the Court accepts MGOC’s position that its Section 17 challenge should be analyzed under the title to the bill as it was presented to the Legislature (CCR-HF5247, relating to taxation).

<sup>101</sup> See *Dickey Aff.* ¶2.

subject of the bill is, it will have to engage in the “balancing” that *Women’s & Children’s Hospital* and *ABC* both held was impermissible. What’s the subject here, looking at the “substance” of the law? *Hanson*, 102 N.W. at 210 (“In construing an act with reference to the constitutional provision, its substance should be considered, rather than its letter; and in determining the constitutionality of the act in question here it is necessary to consider the purpose and effect of the act.”). The Jumbo Omnibus Bill’s general subject *itself* contains at least two subjects—financing and operation. And if the Court reads beyond the title’s first clause, it will find many other unrelated subjects—“modifying trunk highway bonds, transportation policy, combative sports, construction codes and licensing, the Bureau of Mediation Services, the Public Employee Labor Relations Act, employee misclassification...,” *et cetera*. As in *Women’s & Children’s Hospital*, the Court should void the entire Jumbo Omnibus Bill.

The Supreme Court accordingly voided the entire act in *State ex rel. Holman v. Murray*, 42 N.W. 858, 859 (Minn. 1889). There, the title contained a single subject, but the act contained four subjects. *Id.* The court said “[i]t would be difficult to invent a law more obnoxious to the constitutional restriction above quoted [*i.e.*, the Single Subject and Title Clause]; for one of the subjects – that indicated by the title – is absolutely foreign to each of the other subjects, and as independent of them as if it had appeared in a separate act.” *Id.* (citing *State v. Kinsella*, 14 Minn. 524 (1869)). The court “set aside” the act without further discussion. *Id.* The same is true here, and the remedy should be the same.

When the *Johnson* court recapitulated the purpose, rules, and tests related to Minnesota’s Single Subject and Title Clause, it spoke of a jurisprudence “so familiar” that it “need only be referred to very briefly.” *Johnson*, 50 N.W. at 924. The purpose of the Single Subject Clause, it said, was to prevent the Legislature from cobbling together “a number of different and disconnected

subjects” into “one bill”—an “omnibus bill[.]” *Id.* “All that is required,” the Court said, “is that the act should not include legislation so incongruous that it could not, by any fair intendment, be considered germane to one general subject.” *Id.*

The *Johnson* Court’s repeated references to “the act” signify that, notwithstanding a challenger’s interest in some limited number of provisions under a bill, a Section 17 challenge calls into question the constitutionality of the entire act that was passed into law by the legislature, not merely one of its constituent provisions. *See ABC*, 610 N.W.2d at 311 (Paul H. Anderson, J., concurring in part, dissenting in part) (“Section 17’s language has meaning only in the context of enacted session laws....” “Section 17 in no way addresses the validity of the provisions of a law.”). As Justice Paul H. Anderson correctly identified in *ABC*, “[t]he title of a law exists only with respect to the session law and is not part of the statutes as codified by the revisor of statutes.” *Id.* (Paul H. Anderson, J., concurring in part, dissenting in part) (citing generally Minn. Stat. §3C.08 (1998)). This accords with the *Blanch* Court’s understanding of Section 17. *See Blanch*, 449 N.W.2d at 155 (“we do not address the parties’ suggestion that if a bill contains more than one subject, only that provision under attack should be declared unconstitutional; nevertheless, we are constrained to observe that since it is the presence of more than one subject which renders a bill constitutionally infirm, it appears to us at this time unlikely that any portion of such a bill could survive constitutional scrutiny.”).

*Otto* also referred to severance as the appropriate remedy “[w]hen a provision fails the germaneness test.” 910 N.W.2d at 456 (emphasis added) (citing *ABC*, 610 N.W.2d at 307). *Otto*’s citation to *ABC* in turn refers to the requirement that there be a common thread to the law for severance to be the remedy. *See id.* *Otto* coheres with more than a century of Supreme Court jurisprudence and must be understood in its context.

This is a very different context from the law at issue in *Otto*, and so severance is less appropriate than full invalidation for a Section 17 violation like the one present here. First, the purpose and structure of Section 17 affirm this. Section 17 is a constraint upon the Legislature’s powers to enact legislation, and so its violation strikes at the propriety of the act’s passage as a whole. Second, in cases like this one, severance does not “prevent” logrolling and omnibus bills and surprise and “fraud upon the people and the legislature” as contemplated by Section 17. *Johnson*, 50 N.W. at 924; *accord Otto*, 910 N.W.2d at 456. Instead, severance here would *encourage* logrolling because the Legislature will have succeeded with throwing everything at the wall to see what sticks after the lawsuits inevitably followed. Such a “direct and cynical violation of our constitution” should not be countenanced. *Mattson*, 391 N.W.2d at 785 (Yetka, J. concurring, joined by Simonett, J.).

Third, as the majority in *Associated Builders* acknowledged, invalidation of an entire act “clearly would be a greater deterrent to risking a constitutional violation than severing only a challenged provision – because the latter approach would then permit the legislature ‘to take a chance’ since the entire law would not fall.” 610 N.W.2d at 307 n.32 (quoting *Blanch*, 449 N.W.2d at 156 (Popovich, C.J., concurring)). Indeed, the present Jumbo Omnibus Bill demonstrates that the Legislature is more than willing to “take a chance,” expecting at worst only a stern warning from the courts and the loss of one or two provisions. *See also id.* at 310 (Page, J., dissenting) (“in reality having the offending provision held unconstitutional and then severed from those provisions which go unchallenged results in the legislature (or those behind the offending provisions) being no worse off than if the severed provision had not been enacted at all.”); *id.* at 312-13 (Anderson, J., concurring in part, dissenting in part) (“By allowing severance, the majority essentially permits the legislature to pass whatever bills it pleases, knowing that if challenged, the courts will strike only the challenged provisions.”).

Supreme Court jurisprudence thus recognizes that, when a party is affected by one provision of an act, that party's Section 17 challenge calls into question the constitutionality of the entire act, and invalidation of the act is a proper remedy when its provisions do not have a common core.

But even if the Court were to believe that its authority does not extend that far under existing jurisprudence (it does), MGOB maintains that the plain meaning of Section 17—"No law shall embrace more than one subject" means what it says: if an act embraces more than one subject, like this one, the proper remedy is to strike down the law in its entirety, for the reasons stated above. Therefore, the Court, or at least the Supreme Court, should invalidate the entirety of the Jumbo Omnibus Bill because it violates Section 17 in circumstances justifying total invalidation.

**B. The Court should sever Article 36, or at least Article 36, section 2.**

Article 36 pertains only to firearms and public safety.<sup>102</sup> These are not germane to the Jumbo Omnibus Bill's broadest stated double subject (operations and financing of state government) or to the subject of the bill when it was passed by the Legislature (taxation). So, the Court should at least sever Article 36. If the Court holds that there is *some* "common theme" in the Jumbo Omnibus Bill, severance is certainly contemplated for Article 36 by *ABC*, *Otto*, and *Blanch*.

In *Blanch*, the Supreme Court heard a Section 17 challenge to a "park bill" that was one section of one article of an act that included 122 sections and five articles. 449 N.W.2d at 151.<sup>103</sup> The court observed that the act's general subject was "the organization and operation of state government," and concluded that a "mere filament" ran through its various sections—even the park bill itself—to establish a "common thread" under that subject. *Id.* at 155. However, the court observed that if the park bill were *not* germane to the act's general subject, then "we would, despite our long-

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<sup>102</sup> Dickey Aff. ¶2 (*see pp.* 435-37).

<sup>103</sup> *See* Dickey Aff. ¶31 (1988 Minn. Laws ch. 686, H.F. No. 2344).

standing tradition of deference to the legislature, be compelled to declare it violative of art. 4, § 17, and, hence, unconstitutional and void.” *Id.* In other words, had the park bill’s subject been *ungermane* to the act’s general subject, then the *entire park bill* would not have “survive[d] constitutional scrutiny” and the court would have “declared [the park bill] unconstitutional.” *Id.*; *see also ABC*, 610 N.W.2d at 307 n.32 (confirming this reading of *Blanch*, stating that *Blanch* “indicates that had we held the park law unconstitutional we would have invalidated only that portion of the law,” meaning the entire park bill.).

What was to *Blanch* “the park bill” is, here, to this case, the whole of Article 36, which, before being rolled in its entirety into the Jumbo Omnibus Bill, was H.F. 2609 (CCR-HF2609).<sup>104</sup> Since all three sections of Article 36 pertain to firearms or public safety, and neither subject is germane to the operation and financing of state government, taxation—or any of the other provisions in the Jumbo Omnibus Bill—the Court should invalidate the entirety of Article 36.

Finally, at minimum, the Court should sever Article 36, section 2, related to binary triggers. Criminalizing binary triggers, a firearm accessory, is the subject of Article 36, section 2.<sup>105</sup> “Binary triggers,” “firearms,” or even “public safety,” is not germane either to the Jumbo Omnibus Bill’s post-hoc claimed general subject of “the operation and financing of state government” or to the subject of the bill when the Legislature passed it (taxation). So, at the very least, the Court should sever Section 2. *Otto*, 910 N.W.2d at 456.

## CONCLUSION

The 93rd Legislature rammed through the Jumbo Omnibus Bill near midnight the last day a bill could have been passed in 2024. It was a “direct, cynical violation” of our Constitution and

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<sup>104</sup> Dickey Aff. ¶12.

<sup>105</sup> Dickey Aff. ¶2 (*see* pp. 435-37).

perpetrated the exact fraud that our Constitution was expressly written to prevent. The Supreme Court offered an olive branch in *Otto*, declaring its “trust that the Legislature has heard, and will heed, these warnings.” 910 N.W.2d at 459. That trust has been obliterated. The Legislature brazenly called the Court on its dare by passing the Jumbo Omnibus Bill. It has done exactly what Justices Yetka, Simonett, Kelley, and Paul H. Anderson warned. This Court now has a “constitutional duty” to stop these abuses and invalidate the Jumbo Omnibus Bill in its entirety. *Otto*, 910 N.W.2d at 459. In the alternative, the Court should invalidate Article 36 of the Jumbo Omnibus Bill, or at least its section 2, because regulations of firearms are not germane to any common theme that could be discerned in the larger bill.

Dated: April 15, 2025

Respectfully submitted,

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

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