

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Minnesota Gun Owners Caucus,

Case Type: Civil Other/Misc.

Plaintiff,

The Honorable Leonardo Castro  
Court File No. 62-CV-25-1083

vs.

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.

**STATE DEFENDANTS'  
MEMORANDUM  
OF LAW IN SUPPORT OF  
MOTION TO DISMISS**

**INTRODUCTION**

The Minnesota Gun Owners Caucus (“MGOC”) has sued multiple state officials (collectively, the “State Defendants”), alleging that a law amending the definition of a trigger activator (the “Binary Trigger Amendment”) passed at the end of the last legislative session violates the single-subject clause of the Minnesota Constitution.<sup>1</sup> The Complaint is heavy on legal conclusions and remarkable in its scope: it asks the Court to declare the entirety of an omnibus bill passed on May 19, 2024 (the “2024 Omnibus”) unconstitutional. MGOC makes this sweeping request despite challenging a single, 34-word amendment.

The Court should refuse to sit as a super-legislature and invalidate the entirety of the 2024 Omnibus. The single-subject clause is meant to prevent fraud and surprise. Yet surprisingly, the

---

<sup>1</sup> The State Defendants are Tim Walz, Governor of Minnesota, in his official capacity; Keith Ellison, Attorney General of Minnesota, in his official capacity; and Drew Evans, Superintendent of the Minnesota Bureau of Criminal Apprehension, in his official capacity.

Complaint is devoid of any such allegations. Instead, MGOC attempts to use the single-subject clause as a vehicle to strike down legislation it does not like, and it does so months after the legislation went into effect.

This attempt should be rejected. The Court should dismiss the Complaint for three main reasons. First, the Court should treat the single-subject clause claim as a non-justiciable political question. Second, the single-subject claim is untimely because Plaintiff brought this action after the Binary Trigger Amendment was codified by the Revisor of Statutes. Finally, the remedies clause does not apply because it only preserves common law rights.

## **FACTUAL BACKGROUND**

### **I. LEGISLATIVE HISTORY OF THE BINARY TRIGGER AMENDMENT<sup>2</sup>**

Since 1933, Minnesota has exercised its police powers to prohibit the use, ownership, possession, sale, control, or transport of machine guns. H.F. 189, 48th Leg., Reg. Sess. 231–33 (Minn. 1933).<sup>3</sup> Minnesota continued to do so when it revised its criminal code in 1963. H.F. 449, 63d Leg., Reg. Sess. 1228–29 (Minn. 1963).<sup>4</sup>

In 1993, the legislature amended the prohibition on machine guns to include a ban on trigger activators, which are devices constructed and designed to increase a firearm's rate of fire to that of a machine gun. H.F. 1585, 78th Leg., Reg. Sess. 1988 (Minn. 1993).<sup>5</sup> In the 2023 session, the

---

<sup>2</sup> All the materials referenced in this memorandum of law are properly considered on a motion to dismiss because they are embraced by the Complaint and are matters of public record. *N. States Power Co. v. Minn. Metro. Council*, 684 N.W.2d 485, 490–91 (Minn. 2004); *In re Hennepin Cnty. 1986 Recycling Bond Litig.*, 540 N.W.2d 494, 497 (Minn. 1995).

<sup>3</sup><https://www.revisor.mn.gov/laws/1933/0/Session+Law/Chapter/190/pdf/>.

<sup>4</sup> <https://www.revisor.mn.gov/laws/1963/0/Session+Law/Chapter/753/pdf/#laws.1.609.0>.

<sup>5</sup><https://www.revisor.mn.gov/laws/1993/0/Session+Law/Chapter/326/1993-05-17%2000:00:00+00:00/pdf>.

legislature amended the definition of a trigger activator to include devices that allow firearms to shoot multiple shots with a single pull of the trigger. S.F. 2909, 93d Leg., Reg. Sess. 8920–21 (Minn. 2023).<sup>6</sup>

On March 6, 2024, the House introduced a bill relating to public safety, modifying the regulation of machine guns, and amending Minnesota Statutes Section 609.67, subdivision 2, and referred it to the Public Safety Finance and Policy Committee. H.F. 2609, 93d Leg., Reg. Sess. 1349 (Minn. 2024).<sup>7</sup> At a hearing on March 21, 2024, the Public Safety Finance and Policy Committee subsequently adopted amended language to H.F. 2609 that included a prohibition on binary triggers (the “Binary Trigger Amendment”).<sup>8</sup> Binary triggers modify how firearms discharge bullets with each trigger pull. When loaded, firearm triggers are generally in a forward position and must be pulled backward to discharge. Declaration of Anna Veit-Carter (“Veit-Carter Decl.”), Ex. A. Firearms typically discharge a single cartridge during the backward movement of the trigger and require a release of the trigger to ready it for subsequent discharge. *Id.* Binary triggers allow firearms to discharge a cartridge during both the backward movement of the trigger and the forward movement, effectively doubling the rate of fire. *Id.*

The Binary Trigger Amendment was introduced on the heels of a February 2024 incident in Burnsville, Minnesota, in which a man fatally shot and killed two Burnsville police officers and a paramedic using several guns, one of which was equipped with a binary trigger.<sup>9</sup> The Binary Trigger

---

<sup>6</sup> <https://www.revisor.mn.gov/bills/bill.php?b=senate&f=sf2909&ssn=0&y=2023>.

<sup>7</sup> <https://www.revisor.mn.gov/bills/bill.php?f=HF2609&b=house&y=2023&ssn=0>.

<sup>8</sup> <https://www.house.mn.gov/committees/minutes/93020/100747>.

<sup>9</sup> Griffith, Michelle, “DFL lawmakers propose increased straw purchase penalty, trigger ban after Burnsville shooting,” Mar. 20, 2024, *Minnesota Reformer*, (Footnote Continued on Next Page)

Amendment clarifies that a trigger activator, defined in Minn. Stat. § 609.67, subd. 1(d), includes a device that allows firearms to discharge more than one shot with a single pull and release of the trigger. The Senate introduced a companion bill on March 21, 2024, and referred it to the Judiciary and Public Safety Committee. S.F. 5153, 93d Leg., Reg. Sess. 12529 (Minn. 2024).<sup>10</sup> At a hearing the following day on March 22, 2024, the Judiciary and Public Safety Committee considered an amended bill including a prohibition on binary triggers, recommended its passage, and referred the amended bill to the Finance Committee.<sup>11</sup>

Both bills received extensive debate across several different committees, with testimony for and against the Binary Trigger Amendment. The House Public Safety Finance and Policy Committee held a hearing discussing H.F. 2609 on March 21, 2024. Hearing on H.F. 2609 before the H. Pub. Safety Fin. & Pol’y Comm., 93rd Leg., Reg. Sess. (Minn. Mar. 21, 2024).<sup>12</sup> Katie Hook, a forensic scientist for the Minnesota Bureau of Criminal Apprehension (“BCA”) provided technical testimony on the mechanics of a binary trigger. *Id.* at 47:32–51:07. The Senate Judiciary and Public Safety Committee held a hearing discussing S.F. 5153 on March 22, 2024. Hearing on S.F. 5153 before the S. Judiciary & Pub. Safety Comm., 93rd Leg., Reg. Sess. (Minn. Mar. 22, 2024).<sup>13</sup> Nephi Cole of the National Shooting Sports Foundation and Brian Gosch of the National Rifle Association testified against the bill. *Id.* at 01:15:20–01:17:40 (Cole), 01:20:09–1:20:55 (Gosch).

---

<https://minnesotareformer.com/2024/03/20/dfl-lawmakers-propose-increased-straw-purchase-penalty-trigger-ban-after-burnsville-shooting/> (last accessed Apr. 4, 2025).

<sup>10</sup> <https://www.revisor.mn.gov/bills/bill.php?f=SF5153&y=2023&ssn=0&b=senate>.

<sup>11</sup> [https://www.senate.mn/schedule/hearing\\_minutes.html?hearing\\_id=18492&ls=93](https://www.senate.mn/schedule/hearing_minutes.html?hearing_id=18492&ls=93).

<sup>12</sup> <https://www.house.mn.gov/committees/minutes/93020/100747>.

<sup>13</sup> <https://www.senate.mn/schedule/committee/3128/20240322>.

On April 4, 2024, the Public Safety Finance and Policy Committee held a second hearing on H.F. 2609. Hearing on H.F. 2609 before the H. Pub. Safety Fin. & Pol’y Comm., 93rd Leg., Reg. Sess. (Minn. Apr. 4, 2024).<sup>14</sup> At the April 4th hearing, the committee considered a letter in opposition to the bill submitted by Franklin Armory, Inc., as well as a letter from the BCA providing technical support regarding firearm trigger mechanisms. Veit-Carter Decl. Exs. A & B. And on April 18, 2024, the Senate Finance Committee held a hearing discussing S.F. 5153. Hearing on S.F. 5153 before the S. Fin. Comm., 93rd Leg., Reg. Sess. (Minn. Apr. 18, 2024).<sup>15</sup> At the April 18th hearing, the committee considered a letter in opposition to the bill submitted by Nephi Cole.<sup>16</sup> Superintendent Drew Evans of the BCA provided technical testimony. *Id.* at 01:01:40–01:17:40. Ultimately, majorities on each of the committees in both chambers concluded that the ownership, possession, or operation of a binary trigger should be illegal.

On May 2, 2024, the House passed its version of the bill by a vote of 71–59. H.F. 2609, 93d Leg., Reg. Sess. 16416 (Minn. 2024).<sup>17</sup> On May 9, 2024, the Senate passed an amended version of H.F. 2609 and returned it to the House. *Id.* The legislature then formed a Conference Committee to reconcile the differences; the Conference Committee ultimately agreed on the items in dispute and issued a Report on May 17, 2024. *Id.* at 17328. On May 17, 2024, the House repassed the bill as amended by the Conference Committee by a vote of 69–60. *Id.* at 17332.

---

<sup>14</sup> <https://www.house.mn.gov/committees/minutes/93020/100919>.

<sup>15</sup> <https://www.senate.mn/schedule/senate/20240418>.

<sup>16</sup> [https://assets.senate.mn/committees/2023-2024/1007\\_Committee\\_on\\_Finance/Fin\\_20240418\\_SF4312-NSSF-Oppose-Letter.pdf](https://assets.senate.mn/committees/2023-2024/1007_Committee_on_Finance/Fin_20240418_SF4312-NSSF-Oppose-Letter.pdf).

<sup>17</sup> <https://www.revisor.mn.gov/bills/bill.php?f=HF2609&b=house&y=2023&ssn=0>.

The legislature then folded the Binary Trigger Amendment into the session’s final bill – the 2024 Omnibus, as introduced on May 19, 2024. Minn. Laws. ch. 127, art. 36, § 2. The final version of the Amendment makes one change to existing law: the addition of subdivision 1(d)(3) to Minn. Stat. § 609.67, which clarifies that a trigger activator includes “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.” *Id.*

The legislature passed the 2024 Omnibus on May 19, 2024. Compl. ¶ 14. Governor Tim Walz signed the 2024 Omnibus into law on May 24, 2024. *Id.* ¶ 20. The Revisor of Statutes codified the Binary Trigger Amendment into law on November 1, 2024.<sup>18</sup>

## **II. MGOC COMMENCES THIS LAWSUIT.**

On February 12, 2025, MGOC sued Governor Walz, Attorney General Ellison, Superintendent Evans, and Hennepin County Attorney Mary Moriarty, all in their official capacities, seeking declaratory and injunctive relief.

MGOC pleads that it is a social welfare non-profit organization that advocates on behalf of its members to “defend and restore the right to keep and bear arms.” *Id.* ¶ 16. The Complaint alleges that the 2024 Omnibus affects MGOC and its members’ interests by including the Binary Trigger Amendment without any “grandfather-clause provision” protecting those previously in possession of binary triggers. *Id.* The Complaint further alleges that its members who are currently in possession of binary triggers are subject to felony prosecution and, as a result, are harmed by the Binary Trigger Amendment. *Id.* ¶ 71. MGOC also lists certain members that it alleges are or will be affected by the Binary Trigger Amendment. *Id.* ¶ 18.

---

<sup>18</sup> <https://www.revisor.mn.gov/statutes/cite/609/versions>

MGOC challenges only the Binary Trigger Amendment. *E.g., id.* ¶¶ 12, 14, 16–18, 20–23, 58. And the amendment is the sole basis for MGOC’s alleged standing to bring this action. *Id.* ¶ 18. The Complaint sets out two claims. First, Count I claims that the 2024 Omnibus violates the single-subject clause of the Minnesota Constitution and accordingly the entire 2024 Omnibus must be invalidated. Compl. ¶¶ 77–92. In the alternative, MGOC more narrowly requests that the Binary Trigger Amendment be severed from the 2024 Omnibus. Second, MGOC claims that the remedies clause of the Minnesota Constitution allows it to challenge the 2024 Omnibus as unconstitutional for violating the single-subject clause. *Id.* ¶¶ 84–85.

MGOC does not make any allegations of fraud or surprise in connection with either the 2024 Omnibus broadly or, more importantly, the Binary Trigger Amendment. *See generally* Compl.

### **MOTION TO DISMISS STANDARDS**

A court should dismiss a complaint that either asserts non-justiciable claims or fails to state a claim for relief. Minn. R. Civ. P. 12.02(a), (e). Whether a complaint states a claim is a question of law. *Walmart Inc. v. Winona Cnty.*, 963 N.W.2d 192, 196 (Minn. 2021). Dismissal is appropriate “if it appears to a certainty that no facts, which could be introduced consistent with the pleadings, exist which would support granting the relief demanded.” *Halva v. Minn. State Colls. & Univs.*, 953 N.W.2d 496, 501 (Minn. 2021) (internal quotation and citation omitted). While courts must assume that alleged facts are true, they owe no deference to plaintiffs’ legal conclusions. *Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 603 (Minn. 2014).

All the materials referenced in this memorandum of law are properly considered on a motion to dismiss because they are embraced by the Complaint and are matters of public record. *N. States Power Co.*, 684 N.W.2d at 490–91; *In re Hennepin Cnty. 1986 Recycling Bond Litig.*, 540 N.W.2d at 497.



## LEGAL ARGUMENT

The Court should dismiss this Complaint for three reasons. First, the Court should treat the single-subject clause claim as a non-justiciable political question. Second, the single-subject clause claim is untimely because Plaintiff brought this action after codification. Finally, the remedies clause does not apply because it preserves only common law rights.

### **I. THE COURT SHOULD DECLINE TO CONSIDER THE SINGLE-SUBJECT CLAIM BECAUSE IT PRESENTS A NON-JUSTICIABLE POLITICAL QUESTION.**

The Minnesota Constitution provides that “[n]o law shall embrace more than one subject, which shall be expressed in its title.” Minn. Const. art. IV, § 17. Known as the single-subject and title clause, the Minnesota Supreme Court has interpreted this language as requiring legislation to have a “single-subject,” *Johnson v. Harrison*, 50 N.W. 923, 924 (Minn. 1891), as well as a title that provides “notice of the interests likely to be affected by the law,” *Wass v. Anderson*, 252 N.W.2d 131, 134-35 (Minn. 1977). “The single-subject clause is intended to prevent ‘fraudulent insertion’ of matters wholly unrelated to the bill’s primary subject, not to prevent comprehensive legislation.” *Metro Sports Facilities Comm’n v. Cnty. of Hennepin*, 478 N.W.2d 487, 491 (Minn. 1997) (quoting *Wass*, 252 N.W.2d at 135-36).

The political question doctrine is rooted in the separation of powers and principles of judicial restraint. *Ninetieth Minn. State Senate v. Dayton*, 903 N.W.2d 609, 623-24 (Minn. 2017). It recognizes that the judiciary’s role is not “to assess, weigh, and judge the motives of co-equal branches of government engaged in a quintessentially political process.” *Id.* (citing *In re McConaughy*, 119 N.W. 408, 417 (Minn. 1909)).

Single-subject and title claims present “quintessential[] political process” questions that should be beyond the reach of the judiciary. *Id.* To be sure, Minnesota courts have long heard cases arising under the single-subject and title clause. But in the modern era, the Minnesota Supreme Court



has never considered whether the political question doctrine bars consideration. The time to do so is now: constitutional text and structure, history, and the realities of modern legislation all favor holding single-subject and title clause claims non-justiciable.

A key inquiry under the political question doctrine is whether the Minnesota Constitution “specifically delegate[s]” the matter “to some other department.” *In re McConaughy*, 119 N.W. at 417. After all, “[t]he courts have no judicial control over matters which the people have by the Constitution delegated to the Legislature.” *Id.* The Minnesota Constitution delegates responsibility for the single-subject and title clause to the legislature. The clause appears in article IV of the Minnesota Constitution, which relates to the powers and responsibilities of the “legislative department.” Minn. Const. art. IV, § 17. And the clause applies to the legislature’s core function: lawmaking. *See Fletcher Props., Inc. v. City of Minneapolis*, 947 N.W.2d 1, 11 (Minn. 2020). Legislative power is at its apex when exercising that function, which is why courts “generally defer to legislative judgments on the wisdom and utility of a law out of concern for democratic legitimacy and institutional capacity.” *Id.*

Those concerns about democratic legitimacy and institutional capacity are paramount because the long history of the single-subject and title clause shows that it is difficult to enforce. Courts and commentators—from Minnesota and beyond—uniformly agree that the term “subject” is inherently ambiguous and “well-nigh impossible” for courts to police. *E.g.*, *State ex rel. Nash v. Madson*, 45 N.W. 856, 856 (Minn. 1890) (observing that it is “well-nigh impossible” for courts “to lay down any general rule” on whether legislation is confined to one subject); Richard Briffault, *The Single-Subject Rule: A State Constitutional Dilemma*, 82 Alb. L. Rev. 1629, 1630 (2019) (collecting cases and commentary on “deeply problematic” single-subject rule). Because of the inherent ambiguity of the term “subject,” the clause does not present “yes or no question[s]” that are well-

suited to judicial resolution. Compare *Cruz-Guzman v. State*, 916 N.W.2d 1, 9 (Minn. 2018), with *Dayton*, 903 N.W.2d at 623. Quite the opposite as uncertainty about the meaning of “subject” fosters inconsistent judicial decision-making, leading to “unmoored determination[s]” that undermine confidence in the judiciary. See *Rucho v. Common Cause*, 588 U.S. 684, 707 (2019) (cleaned up); see also Jeffrey S. Sutton, *Who Decides? States as Laboratories of Constitutional Experimentation* 261-62 (2022) (noting that “the most biting criticism of judicial enforcement of single-subject (and clear-title) rules is that they promote uneven decision making or, worse, policymaking masquerading as decision making”).

History reinforces these concerns. Single-subject clauses were first enacted in the mid-nineteenth century, when many courts and commentators understood them to be “‘only directory’—admonitions to be followed by the Legislature, not mandates to be enforced by the courts.” Sutton, *supra*, at 245 (citing *State v. Elvins*, 32 N.J.L. 362, 364 (N.J. 1867)). In this vein, the Minnesota Supreme Court originally enforced the clause only in the face of legislative fraud—not for “technical” violations. *E.g.*, *State v. Gut*, 13 Minn. 341, 349–50 (1868); *Tuttle v. Strout*, 7 Minn. 465, 468-69 (1862); *Bd. of Supervisors of Ramsey Cnty. v. Heenan*, 2 Minn. 330, 339 (1858); Ben Johnson, *Embraced and Expressed: Minnesota’s Single-subject and Title Clause* 2-4 (2020) (discussing focus on fraud). Those early decisions recognized that strict enforcement of the single-subject clause would interfere with the legislative process, create uncertainty about huge swathes of law, and not afford proper respect to a coordinate branch of government.

The realities of modern legislation make judicial enforcement of the single-subject clause even more fraught. The Minnesota Supreme Court has been sensitive to “the growing complexity of the legislative process in modern times,” recognizing that single-subject and title clause “place[s] in jeopardy many acts passed over the years by the Minnesota Legislature.” *Lifteau v. Metro. Sports*

*Facilities Comm'n*, 270 N.W.2d 749, 753 (Minn. 1978) (rejecting challenge). In doing so, the Minnesota Supreme Court has acknowledged that the clause is ill-suited to modern legislative “complexity.”

In today’s internet age, legislators and the public alike have ample transparency into the legislative process through online drafts of bills, livestreams of hearings, and robust media coverage. Indeed, the complaint here cites to committee hearings, draft bills, conference committee reports, social media posts, and news articles—a veritable tick-tock of the legislative process. Judicial oversight is neither necessary nor sufficient to squelch the sort of legislative fraud that animates the single-subject clause. Instead, the single-subject and title clause is best enforced through “the usual political process,” *Dayton*, 903 N.W.2d at 624, and “by the people in their primary political capacity,” *In re McConaughy*, 119 N.W. at 417. This Court should decline to interfere with that political process and find the entire Complaint nonjusticiable.

### **III. MGOCS SINGLE-SUBJECT CLAIM IS UNTIMELY BECAUSE THE BINARY TRIGGER BAN HAS ALREADY BEEN CODIFIED.**

In the alternative, the Court should also reject MGOCS’s single-subject challenge as untimely because it came after the Binary Trigger Amendment was codified into statute.

Of the approximately 40 states that have single-subject clauses in their constitutions, 16 have adopted a version of what is referred to as the “codification rule.” Under that rule, any defects in the title or subject of a bill are cured when the bill is subsequently codified into the specific statutes. *State v. Mabry*, 460 N.W.2d 472, 475 (Iowa 1990) (applying the codification rule in a single-subject challenge); *Heaton v. State*, 4 S.E.2d 98, 99 (Ga. Ct. App. 1939) (same); *Bond v. Bd. of Cnty. Comm’ra*, 290 P.2d 1013, 1015 (Kan. 1955) (same); *Peterson v. Vasak*, 76 N.W.2d 420, 424 (Neb. 1956) (same); *Lapland v. Steams*, 54 N.W.2d 748, 752 (N.D. 1952) (same); *South Carolina Tax Comm’n v. York Electric Coop.*, 270 S.E.2d 626, 628-29 (S.C. 1980) (same); *Skaggs v. Grisham-*

*Hunter Corp.*, 53 S.W.2d 687, 688 (Tex. Civ. App. 1932) (same); *State v. Pitet*, 243 P.2d 177, 186 (Wy. 1952) (same); *State v. Rothauser*, 934 So. 2d 17, 19 (Fla. Ct. App. 2006) (same); *State v. Snyder*, 835 S.W.2d 30, 32 (Tenn. Ct. Crim. App. 1992) (same); *Blumenthal v. I. Trager & Co.*, 31 So. 622, 623 (Ala. 1902) (same); *Abruzzese v. Oestrich*, 138 N.J. Eq. 33, 41 (N.J. 1946) (applying codification rule in a title clause challenge)<sup>19</sup>; *State v. Barr*, 232 N.W.2d 257, 259 (S.D. 1975) (same); *State v. Chesapeake & Potomac Tel. Co. of W. Va.*, 7 S.E.2d 257, 258 (W.V. 1939) (same); *Fed. Reserve Bank of San Francisco v. Citizens' Bank & Trust Co. of Pocatello*, 23 P.2d 735, 738-39 (Ida. 1933) (same); *Falender v. Hankins*, 177 S.W.2d 382, 383 (Ky. Ct. App. 1944) (same). Accordingly, even if a bill violates the single-subject clause when it is passed, that challenge becomes void after its provisions are codified into statute.

*Mabry* is the leading case explaining the codification rule. There, the Iowa Supreme Court considered a single-subject to challenge to a criminal statute. 460 N.W.2d at 473. The court, however, noted that the challenged law had been codified into statute by the time the challenge was brought. *Id.* at 475. The court reasoned that the codification process “provides a window of time measured from the date legislation is passed until such legislation is codified” during which a single-subject case can be brought. *Id.* “Absent a successful challenge during this period of time, the new legislation, if it is otherwise constitutional, becomes valid law.” *Id.* As the court explained, this

---

<sup>19</sup> Minnesota courts, like those in other jurisdictions, have held that provisions like art. IV, § 17 impose two separate, but related, requirements: that laws embrace only one subject (the single-subject clause), and that their titles express that subject (the title clause). *See, e.g., State ex rel. Pearson v. Probate Ct. of Ramsey Cnty.*, 287 N.W. 297, 300 (Minn. 1939). The logic of applying the codification rule is the same between both clauses.

codification rule “strikes a balance between the salutary purposes of the single-subject rule and the importance of upholding the constitutionality of new legislation.” *Id.* at 471.<sup>20</sup>

This Court should apply the codification rule. Like the process described in *Mabry*, in Minnesota, legislation is codified by the Revisor of Statutes as soon as possible after the legislature has adjourned. Minn. Stat. § 3C.06, subd. 1. In this case, the Revisor codified all the statutes affected by the 2024 Omnibus on November 1, 2024. *See* Chapter 609 Versions, Minnesota Statutes, <https://www.revisor.mn.gov/statutes/cite/609/versions> (noting that the current version of chapter 609 was codified and published on November 1, 2024). For approximately 6 months, parties could have challenged the format in which the 2024 Omnibus was passed. (Indeed, another plaintiff did so. *See UnitedHealth Grp., Inc., et al. v. State of Minnesota, et al.*, 62-CV-24-4764 (Ramsey Cnty. Dist. Ct., filed Aug. 7, 2024).). Instead of doing so, MGOC delayed bringing its suit until well after the Binary Trigger Amendment was passed and codified.

While MGOC provides no explanation for its delay, one possibility is apparent. The Binary Trigger Amendment had the votes to pass independently from the 2024 Omnibus; the legislature simply ran out of time. *See supra* Facts § 1. By delaying until the next legislative session, MGOC insulated its challenge from the possibility of the same legislature that originally passed the Amendment could call a special session and cure the alleged single-subject violation. This type of political gamesmanship is yet another reason the political question doctrine should apply. But it also provides just as strong an argument to apply the codification rule. That is because without the codification rule, single-subject claims brought as declaratory judgment actions (as this is) are

---

<sup>20</sup> On the other side of the ledger, State Defendants are aware of only two states that have considered this codification rule in single-subject or title claims and rejected it. *See People v. Reedy*, 708 N.E.2d 1114, 1119 (Ill. 1999); *Netzer Law Office, P.C. v. State ex rel. Knudsen*, 520 P.3d 335, 340 (Mont. 2022).

subject to Minnesota’s default six-year statute of limitation. In other words, without the codification rule, not only can MGOC bring its challenge to the 2024 Omnibus’s Binary Trigger Amendment months after it was enacted and months after it was codified; MGOC could also challenge the 2023 bill that amended the definition of a trigger activator<sup>21</sup>, or anything it finds issue with in legislation passed as far back as 2019. The risk of ongoing single-subject litigation creates tremendous instability, all for a disagreement with the format of a bill passed long ago—not the substance of the law. The Court should decline to endorse that regime of constitutional chaos and instead follow the path endorsed by *Mabry*: balance the goals of the single-subject clause against the need for finality regarding substantively constitutional legislation by applying the codification rule.

Because MGOC waited until after the Binary Trigger Amendment was codified to challenge it, its challenge should be dismissed as untimely.

#### **IV. MGOC’S REQUEST TO DISCARD THE ENTIRE 2024 OMNIBUS IS INAPPROPRIATE; SEVERANCE IS THE PROPER REMEDY.**

MGOC’s requested relief for its single-subject claim is staggering: for one narrow challenged provision, it requests sweeping judgment invalidating the entirety of the 2024 Omnibus. That request is unmoored from decades of the Minnesota Supreme Court’s binding precedent.

Most fundamentally, *Otto v. Wright County* set out the “proper remedy” to a single-subject violation: severing the challenged, offending provision from the rest of the bill. 910 N.W.2d 446, 456 (Minn. 2018). *Otto* does not contemplate, hypothesize, or ponder that in some cases a court could declare an entire law invalid for a single-subject violation as MGOC requests. Rather, the Supreme Court considered a similar argument to the one MGOC makes here—that the omnibus at issue in that case contained such a broad array of provisions that the entire bill was suspect. *Compare id.* at 458 with Compl. ¶¶ 9-12. The Court dealt with that argument succinctly and emphatically: it

---

<sup>21</sup> Found in 2023 Minn. Laws ch. 52, art. 4, § 5, another “act relating to state government.”



would violate basic principles of judicial restraint to pre-judge provisions not at issue in the litigation, so the Court “will not strike down a germane provision of a law simply because other provisions in the law are not germane.” *Otto*, 910 N.W.2d at 458. This Court cannot disregard that binding instruction.

*Associated Builders & Contractors v. Ventura* holds the same. 610 N.W.2d 293 (Minn. 2000). After considering the “draconian” option of invalidating the entire bill at issue because the challenged provision violated the single-subject clause, the Supreme Court rejected that option. *Id.* at 305-306. Instead, it held that severance of the challenged provision was the appropriate remedy. *Id.* at 305. That Court likewise cautioned that invalidating an entire bill because of one problematic provision would “disregard [] the constitutional principles of separation of powers.” *Id.* And the court of appeals has used this same remedy, even though the severed, offending portion was larger and more substantive than the pieces of the bill left intact. *Unity Church of St. Paul v. State*, 694 N.W.2d 585, 597-98 (Minn. Ct. App. 2005). It did so specifically because the role of courts is to judge the provisions challenged in the litigation, not parts of the bill no party has contested are constitutional. *Id.* at 598-99. That reasoning is no less prudent now than it was 20 years ago.

Following that binding precedent, if the Court finds a violation of the single-subject clause here, the Court should disregard MGOC’s request to invalidate provisions of the 2024 Omnibus it does not and cannot properly challenge. Instead, the Court should limit itself to the “proper remedy”: sever the Binary Trigger Amendment and invalidate only that provision.

#### **V. THE REMEDIES CLAUSE DOES NOT APPLY.**

MGOC alleges that the Remedies Clause provides it with a cause of action to have the Omnibus “struck, set aside, and declared unconstitutional and void.” (Compl. ¶ 91.) MGOC’s assertion is incorrect and contrary to the Minnesota Supreme Court’s interpretation of the Remedies Clause. Therefore, the Court should dismiss the second count of the Complaint.



The Remedies Clause provides that “[e]very person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive to his person, property or character, and to obtain justice freely and without purchase, completely and without denial, promptly and without delay, conformable to the laws.” As the Minnesota Supreme Court has explained, “the Remedies Clause does not guarantee redress for every wrong, but instead enjoins the legislature from eliminating those remedies that have vested at common law without a legitimate legislative purpose.” *Olson v. Ford Motor Co.*, 558 N.W.2d 491, 497 (Minn. 1997) (original emphasis removed); *see also State v. Lindquist*, 869 N.W.2d 863, 873–74 (Minn. 2015) (“We normally interpret the Remedies Clause as preventing the Legislature from abrogating recognized common-law causes of action.”). Thus, the Remedies Clause protects and preserves common law rights but “is not a separate and independent source of legal rights on which to base a declaratory judgment action.” *Hoelt v. Hennepin Cnty.*, 754 N.W.2d 717, 726 (Minn. Ct. App. 2008).

MGOC cannot obtain relief through the Remedies Clause because it does not identify a common-law right it seeks to vindicate or that the legislature has attempted to abolish. Accordingly, Count II of the Complaint should be dismissed.

### CONCLUSION

For the foregoing reasons, State Defendants respectfully request that the Court dismiss MGOC’s Complaint in its entirety.

Dated: April 15, 2025

Respectfully submitted,

KEITH ELLISON  
Attorney General  
State of Minnesota

/s/ Anna Veit-Carter

ANNA VEIT-CARTER

Assistant Attorney General

Atty. Reg. No. 0392518

EMILY B. ANDERSON

Assistant Attorney General

Atty. Reg. No. 0399272

MATT MASON

Assistant Attorney General

Atty. Reg. No. 0397573

445 Minnesota Street, Suite 600

St. Paul, Minnesota 55101-2131

(651) 300-7547 (Voice)

(651) 282-5832 (Fax)

[anna.veit-carter@ag.state.mn.us](mailto:anna.veit-carter@ag.state.mn.us)

[emily.anderson@ag.state.mn.us](mailto:emily.anderson@ag.state.mn.us)

[matt.mason@ag.state.mn.us](mailto:matt.mason@ag.state.mn.us)

ATTORNEY FOR STATE DEFENDANTS

MINNESOTA  
JUDICIAL  
BRANCH