

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' REPLY  
MEMORANDUM  
OF LAW IN SUPPORT OF  
MOTION TO DISMISS**

**INTRODUCTION**

MGOC<sup>1</sup> peppers its opposition with a verbal sleight of hand: it calls the Binary Trigger Amendment an “unconstitutional statute.” But MGOC never argues it is unconstitutional for the State to ban binary triggers. Instead, all MGOC argues is that the Binary Trigger Amendment was passed by an unconstitutional procedure. That distinction matters. Additional process, like codification, can cure procedural defects. And the codification rule does not foreclose challenges to substantively unconstitutional statutes. It is MGOC’s position that defies common sense: when a lobbyist loses in the legislative process, it may use litigation to strike down laws with no substantive defects based on a procedural misstep in passing them, years into the future. That regime of constitutional chaos should not stand.

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<sup>1</sup> State Defendants use the same abbreviations here that they have used throughout briefing.

And MGOC doubles-down on its sweeping request to invalidate *all* of the 2024 Omnibus's provisions, despite no connection between MGOC's mission and those provisions, making no argument that any of those other provisions lack germaneness to the bill's subject, and in the face of Minnesota's strong presumption that its laws are constitutional. MGOC asks the Court to flip that constitutional presumption and ignore Minnesota Supreme Court precedent to the contrary because a 35-word provision (which was extensively debated, passed through multiple committees of both houses, reconciled, and had the votes to pass by itself) was added to a larger bill at the end of session. That cannot be the state of the law. The Court should grant the State Defendants' motion to dismiss.

## ARGUMENT

### **I. MGOC'S SINGLE-SUBJECT CLAIM IS UNTIMELY BECAUSE THE BINARY TRIGGER BAN HAS ALREADY BEEN CODIFIED.<sup>2</sup>**

As previously argued, the Court should reject MGOC's single-subject challenge as untimely because it came after the Binary Trigger Amendment was codified into statute. (St. Defs.' Br. at 11-14.) Under the codification 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). This approach balances the goals of the single-subject clause against the need for finality regarding substantively constitutional legislation.

Here, MGOC's dispute is with the process—not substance—of the Binary-Trigger Amendment. 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

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<sup>2</sup> State Defendants maintain that the complaint presents a nonjusticiable political question. State Defendants have pressed this argument to ensure it is preserved for appellate review; they incorporate it by reference here.

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, a different plaintiff challenging a different aspect of the bill 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, MGOC delayed bringing its suit until well after the Binary Trigger Amendment was codified. Because MGOC waited until after the Binary Trigger Amendment was codified to challenge it, its challenge should be dismissed as untimely.

In response, MGOC first argues that the Court should reject the codification rule because there is no Minnesota case law expressly adopting it. (Pl’s Br. 17.) But the explanation for that is simple; there is no caselaw suggesting that the codification rule has previously been considered by Minnesota courts.<sup>3</sup> MGOC’s argument that the Court should reject the rule because a “majority” of states with single-subject provision have not applied it is similarly unpersuasive. The vast majority of states (16 out of 18) that have considered the codification rule have adopted it. *See State v. Mabry*, 460 N.W.2d 742, 475 (Iowa 1990). (*See also* St. Defs.’ Br. at 11-12 (string-citing cases).) Silence from courts on a rule they have not been asked to apply is not persuasive.

Next, MGOC contends that many codification-rule states apply a different and narrower version of the codification rule. But the simple fact that some states use different codification procedures than Minnesota does not change the prudence of the codification rule or how it should apply in Minnesota. In Minnesota, the Revisor – an office and employee of the legislature<sup>4</sup> – codifies statutes. Minn. Stat. § 3C.06, subd. 1; *see also State v. Boecker*, 893 N.W.2d 348, 354 (Minn. 2017)

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<sup>3</sup> MGOC points to *Otto* as justification that the Court should reject the codification rule here, but the Supreme Court in *Otto* did not consider the rule. Silence is not precedent.

<sup>4</sup> *See* Minn. Stat. § 3C.01; *see also* “Office Information,” Office of the Revisor of Statutes, <https://www.revisor.mn.gov/> (last accessed May 2, 2025) (“The Revisor’s Office is a nonpartisan office of the Minnesota Legislature.”).

(noting that the statutes are the codified versions of the laws). The Minnesota Legislature has assigned that responsibility to the Revisor’s office (itself an office of the legislative branch – *see infra* n. 4) by statute since at least 1984. *See* 1984 Minn. Laws. Ch. 480, § 6. In short, in Minnesota it is the Revisor that codifies statutes on behalf of the legislature, by the legislature’s own mandate. This structural choice has no effect on the application of the codification rule.

Moreover, it is the same codification process that the *Mabry* court considered when it applied the codification rule. *Mabry*, 460 N.W.2d at 475 (applying codification rule to the Iowa Code Editor’s codification of statutes).<sup>5</sup> That rule and reasoning squarely applies in Minnesota. That is because single-subject challenges are solely about process—not about the substance of the law. *Id.* at 475 (noting that after codification, legislation becomes valid law as long as it is “otherwise constitutional”). So additional process—the codification of each provision of a law into its subject-specific statute by an office of the legislature—cures any defect in the title or subject of the original bill.

MGOC’s principal authority, *Boecker*, does not speak to whether the Court should apply the codification rule. That case held that, when interpreting statutes, the language of the session laws must be considered along with the codified statute. *Boecker*, 893 N.W.2d at 353-54. But the relevant language in the 2024 Omnibus places the Binary Trigger Amendment into the subject-specific statute it amends; it does not keep its permanent home within the allegedly problematic 2024 Omnibus. 2024 Omnibus, art. 36, § 2 (“Minnesota Statutes 2023 Supplement, section 609.67, subdivision 1, is amended to read . . . .”) The subject of Minn. Stat. § 609.67 is singular, and so the

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<sup>5</sup> The operative section of Iowa law, directing the Iowa Code Editor to codify statutes “as soon as possible after the final adjournment of a regular or special session of a general assembly,” has since been renumbered as I.C.A. § 2B.12.

Binary Trigger Amendment’s appropriate codification into that statute by the Revisor—directed twice-over by the legislature—cures any single-subject violation.

Third, MGOC warns that application of the codification rule would “shut down even already-filed legal challenges to a bill,” thereby foreclosing any potential relief for single-subject challenges. (Pl’s Br. at 22.) Not so. The codification rule—like any other timeliness rule, such as statutes of limitation or laches—dictates the deadline by which a plaintiff must commence litigation. And as with other timeliness rules, application of the rule is determined at the time of commencement. An example proves the point: other plaintiffs commenced a single-subject challenge *prior* to codification, and other state defendants have not raised a codification argument even though the challenged provision was subsequently codified along with the Binary Trigger Amendment in November 2024.<sup>6</sup> See *UnitedHealth Grp., Inc., et al. v. State of Minnesota, et al.*, 62-CV-24-4764 (Ramsey Cnty. Dist. Ct., filed Aug. 7, 2024). In any case, courts are more than capable of providing efficient relief when the situation demands it (as in *UnitedHealth*, where the district court ruled on multiple preliminary injunction motions and appeals were taken and briefed on a single-subject claim, all before the 2024 Omnibus was codified – *see id.*, Orders filed Aug. 14, 2024; *UnitedHealth Grp., Inc., et al. v. State of Minnesota, et al.*, Nos. A24-1319, A24-1346, A24-1349, and A24-1385).

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<sup>6</sup> MGOC also misconstrues the “ripeness” argument raised by Attorney General Ellison in the UHG litigation. The argument was not that the single-subject challenge was brought too soon (i.e. prior to codification or enactment) but rather that the plaintiffs lacked current or imminent potential future harm from increased penalties to an unchanged prohibition on worker misclassification. *UnitedHealth Grp., Inc., et al. v. State of Minnesota, et al.*, 62-CV-24-4764 (Ramsey Cnty. Dist. Ct.), Index #71, St. Defs.’ Br. at 15-16. And as to the conversion provision, the plaintiffs forfeited that claim because it was not ripe. *Id.*, Index #83 at 15, n. 10. Notably, State Defendants have not raised a ripeness argument here, even though to their knowledge no prosecuting authority in Minnesota has charged any individual for unlawful possession of a binary trigger. Simply put, MGOC tries to spring a trap that does not exist.

On the other hand, there is real harm in constitutional instability and chaos without the codification rule. Without it, single-subject claims are limited only by the default statute of limitations. That means that parties who dislike a particular law, but have no valid constitutional or other legal attack on its substance, may attempt to invalidate that law on single-subject grounds *years* after it was passed and codified and has been governing the lives of Minnesotans, rather than engaging in the legislative process. Such legislation-by-litigation leaves citizens in a constant state of legal uncertainty. That is exactly the reason that *Mabry* and other courts apply the codification rule: to balance “the salutary purposes of the single-subject rule and the importance of upholding the constitutionality of new legislation.” *Mabry*, 460 N.W.2d at 475; *see also Otto v. Wright County*, 910 N.W.2d 446, 459 (noting that statutes enjoy a strong presumption of constitutionality). The codification rule leaves ample opportunity for legitimate challenges, but declining to apply it here would destabilize Minnesota’s legislative process.

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

MGOC continues to advocate for relief that has been considered and squarely rejected by the Minnesota Supreme Court—striking the entire omnibus bill. In support of this argument, MGOC conjures a two-step process by inference from *Associated Builders & Contractors v. Ventura*, 610 N.W.2d 293 (Minn. 2000) and *Otto v. Wright County*, 910 N.W.2d 446, 456 (Minn. 2018), while ignoring those precedents’ plain text.

Start with *Otto*. The Supreme Court did not, in any sense, look to the entirety of that challenged omnibus to determine if it had a single subject as a “first step.” The plaintiff (and amici<sup>7</sup>) in that case certainly *asked* the Court to do so:

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<sup>7</sup> *See* Br. of Amici Curiae ACLU et al. at 17-20, available at <https://mn.gov/law-library-stat/briefs/pdfs/CN/a161634scac2.pdf>.

The State Auditor argues that we must conclude that the subject of chapter 77 is too broad to be a single subject that connects the many disparate provisions of that bill . . . The State Auditor further contends that ‘numerous provisions’ in the law fail ‘to share a common meaningful thread of germaneness[.]’

*Otto*, 910 N.W.2d at 456; *see also id.* at 455. But the Court explicitly rejected that argument in the same paragraph: “[T]he Counties contend[] it would be inappropriate to sever *germane* provisions simply because other, unchallenged, provisions might not be germane. *Our precedent compels us to agree with the Counties.*” *Id.* (first emphasis in original, second emphasis added). And the Court went further, explaining that it would be improper to look to or analyze provisions that were not the subject of the litigation in deciding a single-subject challenge. *Id.* at 458.<sup>8</sup> The text of *Otto* thus expressly forecloses the analytic method MGOC asks this Court to undertake.

*Associated Builders* undertook a more fulsome analysis of whether to invalidate an entire bill for a single-subject violation or to sever challenged provisions if they were not germane. But its conclusion was the same as *Otto*’s: that the “proper remedy” is to sever a challenged non-germane provision. *Associated Builders*, 610 N.W.2d at 307; *Otto*, 910 N.W.2d at 456 (citing *Associated Builders* for the proper remedy).<sup>9</sup>

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<sup>8</sup> The *Otto* court also analyzed whether the operation of state government—the subject the legislature gave to that omnibus—was inherently too broad a subject to satisfy the single-subject clause as an alternative argument. It held it was not. *Id.* at 457. But that is not the same as reading the bill as a whole to determine whether all the provisions were connected to a single subject, legislatively-provided or otherwise: the Court specifically held it would not do that. *Id.* at 458.

<sup>9</sup> MGOC argues that the Court must start with its proposed first-step to determine to what subject the challenged provision must be germane. Pl.’s Br. at 28. But MGOC’s brief provides the answer in the very same paragraph: the Court begins with the subject “identified in the bill’s title.” *Id.* That answer comes from the text of section 17: “No law shall embrace more than one subject, *which shall be expressed in its title.*” Minn. Const. art. IV, § 17 (emphasis added). And it is where *Otto* began as well. 910 N.W.2d at 457 (analyzing germaneness to the bill’s given subject: state government operations). MGOC’s invented problem is already solved and does not necessitate a new analytic framework.

What is more, MGOC's proposed two-step analysis and the potential for full invalidation was the path advocated *by the dissent* in *Associated Builders*. 610 N.W.2d at 309 (Page, J., dissenting) (analyzing the entire bill, concluding the challenged provision was germane but many other provisions were not, and concluding that the proper remedy to that set of facts was full invalidation of the law). If Justice Page (or the rest of the Court) had believed *Associated Builders* preserved invalidation as a proper remedy when all provisions of the bill, challenged or not, did not hold together, presumably his opinion would have noted that and been a concurrence-in-part-and-dissent-in-part. Instead, Justice Page lamented that the Court's "most serious or most troubling" error was choosing to sever some provisions of a law that embraced more than one subject, rather than in all cases invalidating the entire law. *Id.* at 309-10. But that lamentation came in dissent, which means it was rejected as a matter of precedent.

The language MGOC cherry-picks from *Associated Builders* to support its invented two-step framework comes from a discussion of past practice and other potential remedies. *Id.* at 305-06. First, the Court expressly rejected that practice. *Id.* at 306 ("[W]e need not engage in such a pursuit."), 307 ("We decline that path now in favor of a more pragmatic result that is consistent with our constitution and the cases interpreting provisions in violation of the Single Subject and Title Clause."). Second, any language that implies another possibility goes beyond the holding and facts of *Associated Builders*, is accordingly dicta, and does not bind this Court. *See Pecinovsky v. AMCO Ins. Co.*, 613 N.W.2d 804, 808 (Minn. Ct. App. 2000) (quoting *K.R. v. Sanford*, 588 N.W.2d 545, 548) (Minn. Ct. App. 1999) (defining dicta as non-binding). But *Otto's* declaration that "the proper remedy" to a single-subject challenge is "to sever that provision from the rest of the bill" does bind this Court. 910 N.W.2d at 456.

This Court cannot disregard binding instructions from the Minnesota Supreme Court. If the Court finds a violation of the single-subject clause here, the “proper remedy” is to sever the Binary Trigger Amendment and invalidate only that provision. The Court should squarely reject MGOC’s request to invalidate provisions of the 2024 Omnibus it does not and cannot properly challenge.

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

For its Remedies Clause argument, MGOC again asks this Court to ignore Minnesota Supreme Court precedent that is directly on point. The Minnesota Supreme Court has repeatedly 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 finds it “extraordinarily difficult to think of a reason” why the Remedies clause should be limited to common law rights (Pl’s Br at 30), but also fails to distinguish or even meaningfully engage with cases above. Instead, MGOC inaccurately cites *Dean v. City of Winona*, for the proposition that “the Remedies Clause provides an independent cause of action for constitutional violations.” 868 N.W.2d 1, 7 (Minn. 2015) (Pl.’s Br. at 30). This quotation, however, comes from the Court’s summary of appellant’s theory—not analysis. The Supreme Court did not “expressly reserve” the question, but rather simply declined to consider it because it had not been properly preserved. *Id.* at 8.

The Court should reject MGOC's attempt to expand the application of the Remedies Clause beyond the Supreme Court's precedent. 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.

### CONCLUSION

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

Dated: May 6, 2025

Respectfully submitted,

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