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**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN COURT OF APPEALS

Minnesota Gun Owners Caucus,

Respondent,

vs.

Tim Walz, et al.,

Appellants,

vs.

Mary Moriarty,

Defendant.

APPELLANTS' REPLY BRIEF

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TABLE OF CONTENTS

TABLE OF AUTHORITIES.....	iii
INTRODUCTION	1
ARGUMENT.....	1
I. <i>OTTO V. WRIGHT COUNTY</i> PROVIDES THE FRAMEWORK FOR ANALYZING SINGLE-SUBJECT CLAIMS AND DICTATES SEVERANCE AS THE PROPER REMEDY FOR A VIOLATION.....	1
A. The Test for Single-Subject Challenges Is Germaneness.	2
B. The Remedy for a Single-Subject Violation Is Severance.....	5
1. Precedent Demands Severance.	6
2. <i>Women's & Children's Hospital</i> Is an Outlier, Not the Rule.	7
3. Standing Principles Requires Limiting the Remedy to Severance.	9
4. Severance Is the General Remedy for Constitutional Challenges.	11
5. Full Invalidation Would Lead to a Landslide of Legislative Problems.....	12
II. THE COURT SHOULD APPLY THE CODIFICATION RULE, UNDER WHICH THE GUN OWNERS' CHALLENGE IS UNTIMELY.....	14
A. The Codification Rule Makes Sense.	15
B. The Codification Rule Would Not Give the Revisor Unchecked Power.....	17
C. That The Minnesota Supreme Court Has Not Previously Considered the Codification Rule Is Not a Reason Not to Apply it Now.....	19
D. Applying the Codification Rule Would Not Foreclose Substantive Constitutional Challenges or Many Single-Subject Challenges.	21
E. Small Differences In State Codification Processes Are Irrelevant To The Purpose of Codification Rule.....	23

CONCLUSION	25
------------------	----

TABLE OF AUTHORITIES

	Page
FEDERAL CASES	
<i>Allstate Ins. Co. v. A.A. McNamara & Sons, Inc.</i> 1 F.3d 133 (2d Cir. 1993)	2
<i>Archer Daniels Midland Co. v. Aon Risk Servs. Inc. of Minnesota</i> 187 F.R.D. 578 (D. Minn. 1999)	20
<i>Crawford v. Washington</i> 541 U.S. 36 (2004)	20
<i>Gomez v. Wells Fargo Bank, N.A.</i> 676 F.3d 655 (8th Cir. 2012)	20
<i>Trump v. Casa, Inc.</i> 606 U.S. 831 (2025)	10
<i>United States v. Northshore Min. Co.</i> 576 F.3d 840 (8th Cir. 2009)	2
<i>Waters v. Churchill</i> 511 U.S. 661 (1994)	20
STATE CASES	
<i>Anderson v. Sullivan</i> 75 N.W. 8 (Minn. 1898)	2, 8
<i>Associated Builders & Contractors v. Ventura</i> 610 N.W.2d 293 (Minn. 2000)	Passim
<i>Back v. State</i> 902 N.W.2d 23 (Minn. 2017)	11
<i>Clark v. Reddick</i> 791 N.W.2d 292 (Minn. 2010)	15, 19
<i>Garcia-Mendoza v. 2003 Chevy Tahoe</i> 852 N.W.2d 659 (Minn. 2014)	9

<i>Giles v. State</i>	
511 N.W.2d 622 (Iowa 1994).....	22
<i>Godfrey v. State</i>	
752 N.W.2d 413 (Iowa 2008).....	22
<i>LS Power Midcontinent, LLC v. State</i>	
988 N.W.2d 316 (Iowa 2023).....	22
<i>McCaughtry v. City of Red Wing</i>	
808 N.W.2d 331 (Minn. 2011).....	4
<i>Otto v. Wright County</i>	
910 N.W.2d 446 (Minn. 2018).....	Passim
<i>Planned Parenthood of The Heartland, Inc. v. Reynolds</i>	
975 N.W.2d 710 (Iowa 2022).....	22
<i>Rukavina v. Pawlenty</i>	
684 N.W.2d 525 (Minn. Ct. App. 2004).....	10
<i>San Diego Gas & Elec. Co. v. Superior Court</i>	
920 P.2d 669 (Ca. 1996).....	20
<i>Save Lake Calhoun v. Strommen</i>	
943 N.W.2d 171 (Minn. 2020).....	19
<i>Skinner v. Wilhelm</i>	
63 Mich. 568 (1886).....	8
<i>State ex rel. Foster v. Naftalin</i>	
74 N.W.2d 249 (Minn. 1956).....	8
<i>State v. Jorgenson</i>	
934 N.W.2d 362 (Minn. Ct. App. 2019)	11
<i>State v. Mabry</i>	
460 N.W.2d 472 (Iowa 1990).....	15, 24, 25
<i>State v. McCormick</i>	
835 N.W.2d 498 (Minn. Ct. App. 2013)	20

<i>State v. Rothauser</i>	
934 So. 2d 17 (Fla. Dist. Ct. App. 2006).....	24
<i>State v. Women's & Children's Hospital</i>	
173 N.W. 402 (Minn. 1919).....	5, 7, 8
<i>Townsend v. State</i>	
767 N.W.2d 11 (Minn. 2009).....	2
<i>Trumble v. Trumble</i>	
37 Neb. 340 (1893).....	8
<i>Unity Church of St. Paul v. State</i>	
694 N.W.2d 585	6, 7, 10, 12
<i>Utilicorp United Inc. v. Iowa Utilities Bd.</i>	
570 N.W.2d 451 (Iowa 1997).....	22

STATE STATUTES

Ala. Const. art. IV, §45.....	24
Fla. Const. art. III, § 6.....	24
Fla. Stat. § 11.2421	24
Ga. Const. art. III, §5	24
Idaho Const. art. II, §16.....	24
Iowa Const. art. III, §29	24
Minn. Const. art. I, § 4.....	21
Minn. Const. art. I, § 16.....	21
Minn. Const. art. IV, § 17.....	3, 5, 21
Minn. Const., art. XI, § 5.....	13
Minn. Stat. § 3C.01.....	18
Minn. Stat. § 3C.05, subd. 1(b), (c).....	18

Minn. Stat. § 3C.08, subd. 4	18, 19
Minn. Stat. § 3C.10, subd. 1	18
Minn. Stat. § 3C.13.....	17
Minn. Stat. § 3.303, subd. 2.....	18
Minn. Stat. § 16A.103	14
Minn. Stat. § 609.67	17
N.D. Const. art. IV, §13	24
Neb. Const. art. III, §2	24
S.C. Const. art. III, §17.....	24
S.D. Const. art. III, §21.....	24
Texas Const. art. III, §35	24
W. Va. Const. art. VI, §30.....	24

OTHER AUTHORITIES

2025 Minn. Laws, 1st Sp. Sess., ch. 6, art. 2 § 6.....	13
HF 2609	16
SF 5153.....	16

INTRODUCTION

The Minnesota Gun Owners Caucus¹ want this Court to go beyond current law and strike down an entire omnibus bill, and not just the provision that the Gun Owners challenged. The Court should decline their invitation, which contradicts bedrock legal principles and the Minnesota Supreme Court's very recent example of single-subject analysis and remedy in *Otto v. Wright County*. The Gun Owners' vast challenge also proves the point of the codification rule.² That rule would cabin single-subject challenges to the immediate aftermath of alleged single-subject violations and prevent parties from lying in wait, with full knowledge of their rights, for months or years, to upend settled legislation on which Minnesotans have structured their businesses and their lives.

The Court should affirm that the remedy available to the Gun Owners is limited to severing the binary trigger ban and, in addition, apply the codification rule to bar their late-filed challenge.

ARGUMENT

I. *OTTO V. WRIGHT COUNTY* PROVIDES THE FRAMEWORK FOR ANALYZING SINGLE-SUBJECT CLAIMS AND DICTATES SEVERANCE AS THE PROPER REMEDY FOR A VIOLATION.

The Gun Owners, not content with invalidating the provision they challenged, ask this Court to do something that Minnesota courts have basically never done in the nearly

¹ The State uses the same defined terms used in their opening brief throughout this brief.

² The State preserves its political question argument for further review, but for the reasons articulated in its opening brief does not argue the issue further here. Br. 9-10, n. 24

150-year history of single-subject litigation in this state: void the entire 2024 omnibus.³

That request finds no support in the framework set out by the Minnesota Supreme Court for analyzing single-subject challenges and flies in the face of the Supreme Court’s directive that the “proper remedy” for a single-subject violation is severance. *Otto v. Wright County*, 910 N.W.2d 446, 456 (Minn. 2018); *see also Anderson v. Sullivan*, 75 N.W. 8, 9-10 (Minn. 1898) (“The familiar rule on the subject is that, while a part of the statute is unconstitutional, that fact does not authorize the courts to declare the remainder void also....”). The Court should deny the Gun Owners’ request.

A. The Test for Single-Subject Challenges Is Germaneness.

In 2018, the Minnesota Supreme Court most recently addressed a single-subject challenge to an omnibus bill that included a “wide variety of topics”—one that looks very similar to this challenge. *Otto*, 910 N.W.2d at 455. *Otto* distilled the test for addressing single-subject challenges from the modern case law. *Id.* at 456-58. The test is simple: germaneness. *Id.* at 458 (citing *Associated Builders & Contractors v. Ventura*, 610 N.W.2d 293, 300-01 (Minn. 2000)). In other words, the Court must determine if the challenged provision is connected to, or a part of, the bill’s subject. *Id.* at 456 (quoting *Townsend v.*

³ The Gun Owners’ “Issue 3” refers to the analysis courts should use in single-subject challenges. But the district court largely agreed with the Gun Owners’ analysis of the 2024 omnibus. Add. 21-24. It determined severance was appropriate not because it disagreed with the Gun Owners’ logic, but “[o]ut of respect and deference for Minnesota Supreme Court precedent favoring severance wherever possible.” Add. 25. Accordingly, the Gun Owners have no standing to appeal that issue. *United States v. Northshore Min. Co.*, 576 F.3d 840, 847 (8th Cir. 2009) (a party cannot appeal a legal conclusion that is “immaterial to the court’s ultimate judgment”). Because the State did not appeal this issue, it is not properly before the Court. *See Allstate Ins. Co. v. A.A. McNamara & Sons, Inc.*, 1 F.3d 133, 137 (2d Cir. 1993).

State, 767 N.W.2d 11, 13 (Minn. 2009)). If the challenged provision is germane, the provision stands. If it is not, the challenged provision is void and must be severed from the remaining bill. *Id.* at 456.

The *Otto* court applied this test by first looking at the subject the legislature gave the omnibus bill in its title. *Id.* at 456. Why did *Otto* start there? While the court did not say, one answer is readily apparent: because that is where the constitution says to look. Section 17 provides, “No law shall embrace more than one subject, *which shall be expressed in its title.*” Minn. Const. art. IV, § 17 (emphasis added). Accordingly, the court determined that the omnibus bill’s subject was “the operation of state government.” *Otto*, 910 N.W.2d at 456 (“The title of chapter 77 begins with “[a]n act relating to the operation of state government.””).

The court then rejected the plaintiff’s argument that the subject was too broad to satisfy the single-subject clause. *Id.* at 457. In doing so, the *Otto* court clarified that its earlier *Associated Builders* decision (along with other prior cases) had no inherent problem with the subject “state government operations”—it only ruled that the challenged provision was not germane to that subject in that case. *Id.* at 456-57 (discussing *Associated Builders*, 610 N.W.2d 293)).

Having identified the subject in the bill’s title, the *Otto* court then analyzed whether the challenged provision was sufficiently connected—germane—to that subject. *Id.* at 457-48. The provision at issue in *Otto* allowed counties to choose between the State Auditor or a private CPA firm to conduct their statutorily required annual audit. *Id.* at 457. The court held that the provision was germane to state government operations because it “directly

regulate[d] a state government officer...by imposing requirements on the [officer's] conduct, review, and use of a county's audit." *Id.* Given the liberal construction afforded to the single-subject clause, the connection between a state officer's responsibilities and state government operations was "clearly" strong enough to satisfy the clause. *Id.* at 457.

Contrary to the Gun Owners' argument, *Associated Builders* does not set forth any different framework. *See* Appellee Br. 44-45. The Gun Owners' interpretation of *Associated Builders* comes not from its holding (or *Otto*'s subsequent discussion of its holding), but from deducing the *inverse* of that holding. In doing so, the Gun Owners invent a framework from a hypothetical rather than actual caselaw.

Associated Builders' holding was limited to its facts—as judicial decisions should be. 610 N.W.2d at 307 n.34; *see also McCaughtry v. City of Red Wing*, 808 N.W.2d 331, 336-37 (Minn. 2011). Accordingly, all *Associated Builders* held is what it said: "on these facts," "[w]here 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." 610 N.W.2d at 307. Nowhere in *Associated Builders* did the supreme court hold that in a different set of facts, courts should analyze bills and determine for themselves whether all their provisions hold together in a "common theme." *See generally* 610 N.W.2d 293; *see also id.* at 307 n. 34. And if *Associated Builders* left that question open, *Otto* answered it: in the face of a bill with wide-ranging provisions, the court declined to disregard the legislature's chosen subject and define a common theme for itself. 910 N.W.2d at 456. It instead undertook a very narrow analysis, keeping with the "liberal" construction of the single-subject clause. *Id.*

The Gun Owners attempt to distinguish *Otto* by describing the bill at issue there as closely hewn to state government operations. Appellee Br. 44-45. But that description starkly contrasts with how *Otto*'s litigants, amici, and supreme court described that bill. 910 N.W.2d at 455 (describing topics ranging from railroad condemnation to flags to cosmetology, and noting “the State Auditor argues that this law is the ‘epitome’ of an unconstitutional ‘garbage bill’”); *see also, e.g.*, *Otto v. Wright County*, A16-1634, Br. of Amici Curiae ACLU of Minn., et al., at 19-20. Moreover, the single-subject clause does not regulate a bill’s length or number of articles, so the fact that the 2024 omnibus has more pages and articles makes no constitutional difference. Minn. Const. art. IV, § 17; *see also State v. Women’s & Children’s Hosp.*, 173 N.W. 402 (Minn. 1919) (holding that a very short bill violated the single-subject clause).

This Court is bound to follow the *Otto* court’s direction and example. Under that precedent, the test is germaneness, and the framework is simple: (1) identify the bill’s subject using its title; (2) compare the challenged provision to that subject; and (3) determine whether the challenged provision is connected to that subject. *Id.*

B. The Remedy for a Single-Subject Violation Is Severance.

The narrow framework under which Minnesota courts analyze single-subject challenges results in a predictably narrow remedy. The supreme court is unambiguous: the “proper remedy” if the Court finds a single-subject violation is to sever the challenged, non-germane provision. *Otto*, 910 N.W.2d at 456 (citing *Associated Builders*, 610 N.W.2d at 307). This Court should affirm that remedy here for five reasons: (1) binding precedent and the facts of this case require it, (2) bedrock principles of standing require it, (3) it is the

general rule for remedying constitutional deficiencies, (4) full invalidation would have cascading legislative consequences, and (5) severance is a common rule in other jurisdictions.

1. Precedent Demands Severance.

Otto is crystal clear about what the proper remedy to a single-subject violation is. *Otto*, 910 N.W.2d at 456. An earlier supreme court case, *Associated Builders*, provides a more thorough analysis but came to the same conclusion. After extensively 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. 610 N.W.2d at 305-06. Instead, it held that severance of the challenged provision was the appropriate remedy. *Id.* at 307. As in *Otto*, that court cautioned that invalidating an entire bill because of one problematic provision would “disregard [] the constitutional principles of separation of powers.” *Id.*

Otto’s narrow interpretation of the remedy prescribed in *Associated Builders* does not stand alone. The court of appeals decided *Unity Church of St. Paul v. State* in 2005—five years after *Associated Builders*. 694 N.W.2d 585 (Minn. Ct. App. 2005). There, the court addressed an alleged single-subject violation in a three-article bill. *Id.* at 590.⁴ The first article amended various natural resources statutes. *Id.* at 590. But the other two articles—most of the bill—related to firearms. *Id.* The plaintiffs challenged only the

⁴ That bill’s subject when it was signed into law was “state government regulation.” 2003 Minn. Laws ch. 28, <https://www.revisor.mn.gov/laws/2003/0/28/> (last accessed Jan. 6, 2026).

firearm-related parts of the bill. *Id.* at 590, 599. The court found a single-subject violation because the challenged firearm provisions were not germane to the bill’s provisions that amended natural resources regulations. *Id.* at 596. The court then severed those firearm provisions—the majority of the bill—because they were the challenged, and “offending,” provisions. *Id.* at 597-98.

If the Gun Owners’ read of *Associated Builders* were correct, it is hard to see how *Unity Church* could have come out that way. *Unity Church* observed that its bill contained subjects that lacked any connection to each other. *Id.* at 595. And still, *Unity Church* did not hold the whole bill was unconstitutional and therefore void. *Id.* at 598-99. It held that the firearms provisions were the “offending” provisions,⁵ that those were the provisions the plaintiffs challenged, and that it should accordingly sever only those provisions. *Id.* at 598. The court did so specifically because the role of courts is to judge the provisions challenged in the litigation, not parts of a bill no party has disputed are constitutional. *Id.* at 598-99.

2. *Women’s & Children’s Hospital* Is an Outlier, Not the Rule.

For those good reasons, both parties have identified only one case in Minnesota’s long history of single-subject litigation that invalidated an entire bill: *State v. Women’s &*

⁵ While the *Unity Church* court did not name the subject of the law (state government regulation) in its analysis, it also did not determine for itself that the “great weight” of the provisions was firearms regulation and so “firearms” was the true subject of the law (though indisputably the firearms provisions made up the majority of the law at issue).

Children's Hospital.⁶ That case, though, has already been implicitly abrogated by the Minnesota Supreme Court—or, at minimum, was contrary to the severance rule when it was decided. *Associated Builders*, 610 N.W.2d at 306 (declaring *Women's & Children's Hospital* “not particularly useful” on the question of the proper remedy in a single-subject violation); *id.* at 305-06 (recounting decades of precedent holding that severance is the proper remedy to a single-subject violation); *Anderson*, 75 N.W. at 9-10 (“The *familiar rule* on the subject is that, while a part of the statute is unconstitutional, that fact does not authorize the courts to declare the remainder void also.”) (emphasis added). And in reaching its sweeping remedy, *Women's & Children's Hospital* cited not a single other Minnesota case, instead borrowing its remedy from *other* states’ rules. 173 N.W. at 402 (citing *Skinner v. Wilhelm*, 63 Mich. 568 (1886) and *Trumble v. Trumble*, 37 Neb. 340 (1893)). *Women's & Children's Hospital* thus stands entirely alone in, and contrary to, the long history of single-subject litigation in Minnesota. The Court should decline the Gun Owners’ invitation to build an entire framework out of one 100-year-old case that is contradicted by dozens of others, both ancient and modern.

But even if *Women's & Children's Hospital* were still good law, it does not help the Gun Owners in this case. As the Gun Owners correctly note, the law at issue in *Women's & Children's Hospital* was a short law that contained two distinct subjects. 173 N.W.2d at

⁶ The Supreme Court also invalidated an entire bill in *State ex rel. Foster v. Naftalin*, 74 N.W.2d 249 (Minn. 1956). But, as *Associated Builders* noted, that was not for a simple violation of the single-subject clause, but because the bill had not followed proper enactment procedures in the first place. 610 N.W.2d at 306.

402. The court could not sever one or the other without engaging in legislative balancing.

See Associated Builders, 610 N.W.2d at 306.

The parties agree: the 2024 omnibus is nothing like that. Appellee Br. 41-42. Rather, the 2024 omnibus looks almost exactly like the bill at issue in *Otto*: basically the same given subject, with many provisions, some of which a complainant believes have nothing to do with each other or the given subject. 910 N.W.2d at 455. And ultimately, the Gun Owners challenge (and have established standing to challenge) only one provision of the 2024 omnibus: the binary trigger ban. *See Add. 9*. Faced with an analogous fact pattern in the most recent precedential case, the Gun Owners provide no distinction – they just ask the Court to chart a different path. But this case is *Otto*, not *Women's & Children's Hospital*.

Severance is the only proper remedy to a single-subject violation, particularly in a case like this. *Otto*, 910 N.W.2d at 456. This Court can go no further than the Minnesota Supreme Court has allowed.

3. Standing Principles Requires Limiting the Remedy to Severance.

Unity Church's reasoning illuminates another problem with considering full invalidation of a bill as a remedy for a single-subject violation: it would eviscerate standing in single-subject cases. 694 N.W.2d at 598. So long as a party is affected by any provision of a bill, no matter how clearly related to its subject or how small, that party could sue with the goal of invalidating a completely separate provision that has nothing to do with the party. Such an outcome is antithetical to bedrock justiciability principles. *Garcia-Mendoza v. 2003 Chevy Tahoe*, 852 N.W.2d 659, 663 (Minn. 2014) (standing requires that a

plaintiff's injury be traceable to a particular action by the defendant); *Rukavina v. Pawlenty*, 684 N.W.2d 525, 531 (Minn. Ct. App. 2004) (standing requires a party to have a "direct interest" in the validity of a statute "which is different in character from the interest of the citizenry in general").

That is exactly the result the Gun Owners seek, however. For example, the Gun Owners make hay over the 2024 omnibus provisions related to combative sports. Appellee Br. 7, 42. But why should the Gun Owners—an organization focused solely on gun rights—be able to overturn statutes regulating combative sports, which the Gun Owners have no connection to and do not actually challenge? Under longstanding single-subject and justiciability doctrines in this state, litigation is limited to parties that are directly connected to the laws they challenge. *See Unity Church*, 694 N.W.2d at 598-99; *Rukavina*, 684 N.W.2d at 531.

In essence, entertaining full invalidation as a remedy would result in the courts issuing advisory opinions springing out of ideological lobbying efforts—destroying the separation between the legislative and judicial branches. *Associated Builders*, 610 N.W.2d at 305; *see also Trump v. Casa, Inc.*, 606 U.S. 831, 852-53 (2025) (courts are limited to issuing remedies that would provide complete relief to the particular plaintiff). And it would flip the "presumption of constitutionality" afforded to legislation on its head. *Otto*, 910 N.W.2d at 458. Because the courts' role is to resolve concrete disputes between parties, their remedy must be limited to the facts of the cases before them. In single-subject cases, that means severance is the proper remedy.

4. Severance Is the General Remedy for Constitutional Challenges.

Severance must be the rule in single-subject challenges because severance is the default rule in *all* constitutional challenges. Generally, when courts find a constitutional violation in part of a law, they must retain as much of the original law as possible while only striking the portions that create a constitutional problem. *E.g., Back v. State*, 902 N.W.2d 23, 31 (Minn. 2017) (holding that severance is the appropriate remedy for an as-applied equal protection violation).

That principle, applied to single-subject challenges generally and this case specifically, results in severance for all the reasons discussed above. The Gun Owners admit that they have not briefed, or even analyzed, every provision of the 2024 omnibus. Appellee Br. 41. So neither the Gun Owners nor this Court knows how much of the 2024 omnibus may, or may not, run afoul of the single-subject clause.

The answer to that problem is not, as the Gun Owners suggest, for the Court to throw up its hands and invalidate the whole thing. That approach would instead presume *unconstitutionality* in every single statute amended by the 2024 omnibus, including such apparently germane provisions as appropriations (which finance state government and its operations); provisions guiding relevant agencies to permit and approve energy infrastructure projects differently, 2024 Minn. Laws ch. 127, art. 43; an amendment to state property tax forfeiture procedures to bring them in line with the constitution and creating a class action settlement fund for violations based on prior state law, *id.* art. 70; provisions amending income tax crediting, *id.* art. 68; statutes applying a prevailing wage to publicly funded housing finance agency construction projects, *id.* art. 6; amendments exempting

certain local plans from state agencies' environmental review, *id.* art. 15, § 51; and provisions commanding that the Department of Transportation be more involved with certain local transportation projects, *id.*, art. 2, § 107.

Minnesota courts have already solved this problem. *See Otto*, 910 N.W.2d at 458. Instead of reading every provision of a law and attempting to assess their germaneness *sua sponte*, without the benefit of affected parties' briefing, severance allows the Court to undertake its constitutional duty while retaining the law's presumption of constitutionality. As in all cases, if the Court finds a constitutional infirmity in the binary trigger ban's inclusion in the 2024 omnibus, its role is to remedy that specific violation by severing that provision from the unchallenged parts of the law – and to go no further than providing that specific relief to the Gun Owners. *Otto*, 910 N.W.2d at 458; *Associated Builders*, 610 N.W.2d at 305; *Unity Church*, 694 N.W.2d at 598.

5. Full Invalidation Would Lead to a Landslide of Legislative Problems.

There is another common-sense reason that Minnesota courts use a scalpel, not an axe swing, when it comes to invalidating state law: laws build on each other. Minnesota's legislature has met in two sessions since it passed the 2024 omnibus. The work of those sessions impacted several provisions previously contained in the 2024 omnibus. *See Minn. Laws 2026, Table 1 at 7*⁷ (listing provisions of 2024 Minn. Laws ch. 127 that were the subject of further legislative action in 2025). If the Court strikes down those original 2024 provisions, what is Minnesota to do with subsequent unchallenged laws that depend on the

⁷ Available at <https://www.revisor.mn.gov/laws/2025/0/Session+Law/Table/1/pdf/> (last accessed Jan. 18, 2026).

2024 omnibus? And indeed, an amendment to a statute would moot the challenge to the prior version. So, any decision from this Court on subsequently amended provisions would, necessarily, be an advisory opinion.

This is particularly true of appropriations provisions. Take, for example, 2025 Minn. Laws, 1st Sp. Sess., ch. 6, art. 2 § 6. That provision amends a one-time appropriation to the Department of Labor and Industry to complete a specific evaluation and report (mandated by 2024 Minn. Laws ch. 127, art. 15 § 46—part of the 2024 omnibus). Both the original appropriation and the project it supports are clearly germane to state government financing and operations (the subject of the 2024 omnibus): a direct command to a state official to undertake a specific project for legislative discussion is, quintessentially, an operation of state government. *Otto*, 910 N.W.2d at 457. The appropriation to support that project directly finances that operation of state government. But, if the Court takes the Gun Owners' invitation to invalidate the entire 2024 omnibus, both provisions would be unconstitutional and invalid.

What, then, would be the result for a lawful 2025 amendment, which extends that one-time appropriation through June 2026? 2025 Minn. Laws, 1st Sp. Sess., ch. 6, art. 2 § 6. In short, the Gun Owners' request for a nearly unheard-of extreme remedy would not just impact the entirety of the 2024 omnibus (on which Minnesotans have structured their businesses and lives for the past two years), but on other years of legislation that are perfectly lawful.

And the cascading effects are not even limited to specific appropriations. The Minnesota Constitution requires the State to balance its budget every biennium. Minn.

Const., art. XI, sec. 5.⁸ The State does so by forecasting annual revenues and expenditures, with a method prescribed by statute. Minn. Stat. § 16A.103. That method requires “assum[ing] the continuation of current laws.” *Id.*, subd. 1a. Budget forecasting has already been done through 2027. *See* “State Agency Base Operating Budgets with Background Materials,” Minnesota Management and Budget, November 2024.⁹ If all appropriations and revenue raising sources from the 2024 omnibus are suddenly invalid—if that leg is kicked out of the stool of forecasting—it throws off all the accounting that has already been done. That could raise the question of whether the State has met its constitutional balanced budget requirement.

In short, invalidating appropriations without careful consideration could lead to unintended cascading consequences and create new constitutional problems. That is another reason to decline the Gun Owners’ invitation to go farther than any Minnesota court has done in the past 100 years by invalidating the entire 2024 omnibus.

II. THE COURT SHOULD APPLY THE CODIFICATION RULE, UNDER WHICH THE GUN OWNERS’ CHALLENGE IS UNTIMELY.

The Gun Owners respond to the State’s argument for the codification rule with hyperbole and several strawmen.¹⁰ But the codification rule shares its common-sense

⁸ *See also* https://www.house.mn.gov/hrd/issinfo/gvst_sbp.aspx.

⁹ <https://mn.gov/mmb/budget/current-budget/governors-budget-recommendations/base-budget-books.jsp> (last accessed Jan. 18, 2026).

¹⁰ Notably, the Gun Owners appear to concede that this Court has the power to apply the codification rule (unlike the political question doctrine). Appellee Br. 15, 19. The State agrees: because the codification rule is a common-law doctrine that has not been previously considered by the Minnesota Supreme Court, the Court may apply it as it does laches. *Infra* p. 19 n.15.

rationale with the uncontroversial common-law rule laches and would simply focus single-subject litigation to the immediate aftermath of a law—when the courts could still remedy the procedural problem a party purports to challenge.

A. The Codification Rule Makes Sense.

The reasoning behind the codification rule is simple: it balances the purpose of the single-subject requirement with the significant reliance interests attached to legislation. *State v. Mabry*, 460 N.W.2d 472, 475 (Iowa 1990) (explaining that the codification rule “strikes a balance between the salutary purposes of the single-subject rule and the importance of upholding the constitutionality of new legislation”). New legislation creates new responsibilities, obligations, and rights for individuals, corporations, and government, impacting the lives of the entire state’s population—not just individual parties to a case. *See id.* (emphasizing the “importance of upholding the constitutionality of new legislation”). Allowing a litigant to sit on its objection to the process by which a provision became law for months or years significantly undermines these reliance interests.

That same reasoning underlies the uncontroversial common-law rule of laches. *Clark v. Reddick*, 791 N.W.2d 292, 294-95 (Minn. 2010). Requiring parties to act diligently when they realize they have been harmed—particularly when their challenge could negatively impact large groups of people, like Minnesota’s citizens who elected representatives to pass bipartisan legislation like the binary trigger ban—is not “nonsensical.” Rather, it is a longstanding equitable rule regularly applied by Minnesota courts, but with *more* certainty attached. Rather than guessing about how long is too long to wait to bring a single-subject challenge, the codification rule provides courts and

litigants a clear cutoff date, and one that makes sense: when the legislature finishes its lawmaking process by codifying a law into its separate (and cleanly defined) statutes. *See infra* pp. 17-18.

And there can be no doubt the Gun Owners sat on known rights for months before they filed suit. They admit in this lawsuit that part of their mission is to track gun-related legislation like the binary trigger ban. *E.g.*, Index 23 at ¶ 5. In line with that mission, the Gun Owners did track the binary trigger ban, including its inclusion in the 2024 omnibus.¹¹ In fact, on May 26, 2024, the Gun Owners publicly announced they were reviewing legal options regarding the 2024 omnibus bill with their outside counsel.¹² Still, the Gun Owners waited *nine more months* to bring their lawsuit, until expectations were settled and the law had become statute.¹³

Cabining single-subject challenges to the time before a challenged law becomes statute also makes sense in the lawmaking process. As discussed more below, “laws” become codified into “statutes” as a regular part of that process. *How a Bill Becomes Law in Minnesota*, Minnesota State Legislature, <https://www.leg.mn.gov/leg/howbill> (last

¹¹ Examples include, but are not limited to, the Gun Owners urging action against HF 2609 and SF 5153 on April 20, 2024 (<https://perma.cc/SR4K-JYGF?type=image>), stating its opposition to the “Binary Trigger Ban” on April 29, 2024, as it went to the House floor (<https://perma.cc/823H-FWNV?type=image>), encouraging others to “TAKE ACTION NOW,” “GET IN THE FIGHT,” and “DONATE” on May 9, 2024, as HF 2609 headed to the Senate (<https://perma.cc/HBD7-UYHP?type=image>), calling on the public to “TAKE ACTION TODAY TO KILL THIS BILL” on May 17, 2024 (<https://perma.cc/39AM-MQLA?type=image>), and tracking that the binary trigger ban had been folded into the 2024 omnibus (<https://perma.cc/YAX6-PJEA?type=image>).

¹² <https://perma.cc/D5UR-43JQ?type=image> (May 26, 2024).

¹³ As the State previously noted, the Gun Owners have shown their ability to bring prompt legal challenges. Br. 20 n. 35.

visited Jan. 18, 2026). Typically—and as reflected in the 2024 omnibus—laws direct their provisions to specific statutory locations, which are chosen by the legislature. Once codified, as a practical matter, citizens, the government, litigants, and judges find the law in those statutes. *See Minn. Stat. § 3C.13* (“Any volume of Minnesota Statutes...certified by the revisor...is prima facie evidence of the statutes contained in it.”).

Codified statutes do not generally suffer from single-subject issues. Here, for example, the binary trigger ban is housed in Minn. Stat. § 609.67, a criminal prohibition on the possession of specific types of firearms and firearm modifications. When a citizen looks up the binary trigger ban or is criminally charged under the binary trigger ban, there is no unfair surprise in that statute. The codification process thus cures a procedural single-subject problem by taking potentially disparate provisions and placing them in specific statutes. It makes good sense that the process of placing parts of a law into more specific homes—statutes—can cure the process-based problem of the law being disparate in the first place. Codification is therefore a sensible cut-off point for a process-based objection to the nature of the law.

Contrary to the Gun Owners’ assertion, the codification rule is a sensible one. It tracks a longstanding common-law doctrine, uses that rationale to preserve the goals of the single-subject clause while ensuring challenges match the procedural nature of that clause, and allows citizens to rely on the law once it is easily accessible in the codebooks.

B. The Codification Rule Would Not Give the Revisor Unchecked Power.

The Gun Owners’ alarmist language regarding the potential for an all-powerful Revisor should the Court adopt the codification rule fundamentally misunderstands

Minnesota law and the Revisor's role. The Revisor has limited statutory power to codify a law—like the 2024 omnibus—into statute. Minnesota law requires the Revisor to “incorporate into the text of Minnesota Statutes the permanent general laws enacted and the amendments made to the statutes at that session and at any extra session of the legislature.” Minn. Stat. § 3C.08, subd. 4. And it prohibits the Revisor from altering “the sense, meaning, or effect of any legislative act” in carrying out its codification duties. Minn. Stat. § 3C.10, subd. 1. In other words, the Revisor, as an appointed office of the legislature, acts with the legislature’s authority to codify statutes. Contrary to the Gun Owners’ unfounded worries about a rogue Revisor, the Revisor clearly does not have the power to “convert a law into a non-law.” Appellee Br. 19. The Revisor’s Office is specifically prohibited from advocating for or against “legislation on issues susceptible to action in the Minnesota legislature” and “may not engage in activities of a partisan nature.” Minn. Stat. § 3C.05, subd. 1(b), (e).

It bears repeating that the Revisor’s Office is a nonpartisan office *of the legislature*. The Revisor is appointed by, and serves at the pleasure of, the Legislative Coordinating Commission. Minn. Stat. § 3C.01. The Legislative Coordinating Commission, in turn, is made up of legislators (from both parties). Minn. Stat. § 3.303, subd. 2. If the Revisor goes rogue, they can be dismissed by the legislature that they are undermining. And, of course, there are remedies for public officials who act outside the limited authority granted to them by law. *See Save Lake Calhoun v. Strommen*, 943 N.W.2d 171, 174 (Minn. 2020). The Gun Owners’ misunderstanding of the basis of, and limits to, the Revisor’s authority is no reason to disregard the codification rule.

Further, there is nothing nefarious about the timing of codification by the Revisor. Codification occurs “as soon as possible after a session of the legislature has adjourned” because that is what the law requires (and has required since 1984). Minn. Stat. § 3C.08, subd. 4; *see also* 1984 Minn. Laws ch. 480, § 6. The Revisor is simply fulfilling a statutory duty assigned to them by the legislature, on the timeline the legislature directed.

The reality of the Revisor’s duties and abilities, delegated by the legislature, is much more mundane than what the Gun Owners would have the Court believe. Adopting the codification rule would not increase the Revisor’s authority or turn the Revisor into an unchecked, unlawful force.

C. That The Minnesota Supreme Court Has Not Previously Considered the Codification Rule Is Not a Reason Not to Apply it Now.

Next, the Gun Owners argue that because Minnesota courts have not applied the codification rule, that rule cannot exist.¹⁴ Appellee Br. 16-18. Once again, the Gun Owners try to conjure up precedent from silence—but that is not how the law works.

It is true that the Minnesota Supreme Court has decided numerous single-subject challenges and has never before applied the codification rule. But neither party has identified any case in which a Minnesota court has been *asked* to consider the codification rule previously.¹⁵ That silence is a very different situation than when a court considers—

¹⁴ It bears repeating that codification acts as a specific application of laches, a principle that Minnesota courts apply routinely when the facts support it—as they do here. *Clark*, 791 N.W.2d at 294.

¹⁵ Because the Minnesota Supreme Court has never addressed the codification rule, this Court has “no controlling precedent” on codification to apply. *State v. McCormick*, 835 N.W.2d 498, 510 (Minn. Ct. App. 2013) (stating that this Court has recognized narrow (Footnote Continued on Next Page.)

and rejects—a new legal principal. A court’s silence on an issue not presented by parties carries no precedential weight. *Waters v. Churchill*, 511 U.S. 661, 678 (1994) (“[C]ases cannot be read as foreclosing arguments they never dealt with.”); *Gomez v. Wells Fargo Bank, N.A.*, 676 F.3d 655, 662 (8th Cir. 2012) (citing *San Diego Gas & Elec. Co. v. Superior Court*, 920 P.2d 669, 699 (Cal. 1996) (“Cases are not authority, of course, for issues not raised and resolved.”)); *Archer Daniels Midland Co. v. Aon Risk Servs. Inc. of Minnesota*, 187 F.R.D. 578, 583 (D. Minn. 1999) (“[A] prior decision will not constitute binding precedent as to issues which were not addressed in that decision, but which were passed upon *sub silentio*.”).

The Gun Owners also argue that many prior single-subject challenges would have been dismissed as untimely had Minnesota applied the codification rule. Appellee Br. 18. This is also true, but the same could be said for nearly any area of law where courts adopt a new legal principle. Consider the Supreme Court’s jurisprudence on the Confrontation Clause. Prior to 2004, a witness’s out-of-court statement could be admitted “so long as it has adequate indicia of reliability.” *Crawford v. Washington*, 541 U.S. 36, 42 (2004). Then, in *Crawford*, the Supreme Court adopted a new framework that prohibits admission of testimonial out-of-court statements unless the witness is unavailable and the defendant had a prior opportunity to cross-examine the witness. *Id.* at 68. Undoubtedly, thousands of pre-*Crawford* convictions would not have stood under the *Crawford* rule. But the existence of those convictions was not authority in opposition to adopting the *Crawford* rule. This is

authority to “make new law” if “there are no statutory or judicial precedents to follow” (citation modified).

simply the nature of how common law develops, not a persuasive reason to reject adopting new rules.

D. Applying the Codification Rule Would Not Foreclose Substantive Constitutional Challenges or Many Single-Subject Challenges.

Again, the Gun Owners forecast doom when they argue that applying the codification rule would massively abridge parties' ability to challenge unconstitutional laws. That is simply not the case.

First, the codification rule has nothing to do with substantive constitutional challenges. If, as the Gun Owners hypothesize, the legislature passes a law banning political speech, abolishing jury trials, or establishing a state church, parties have the First Amendment, the Seventh Amendment, Minn. Const. art. I, § 4, and Minn. Const. art. I, § 16 under which to challenge those laws. Appellee Br. 20. The codification rule—which applies only to claims under Minn. Const. art. IV, § 17—would not affect such challenges. Indeed, none of the Gun Owners' hypotheticals, as presented, even implicate the single-subject clause—a law that only bans jury trials contains only one subject. Appellee Br. 20. The Court should disregard this strawman.

Second, applying the codification rule would not render the single-subject clause toothless. Indeed, under the codification rule, there would still be a valid single-subject challenge to the 2024 omnibus pending before this Court. *See UnitedHealth Group, Inc. v. State*, 62-cv-24-4764 (Minn. Dist. Ct. filed Aug. 8, 2024), *appeal filed* A25-1398. In that case, plaintiffs filed a single-subject challenge to the 2024 omnibus well before codification—in fact, early enough that an appeal was made to this Court well before the

2024 omnibus was codified on November 1, 2024. *See UnitedHealth Group Inc. v. State*, A24-1385 (filed Aug. 29, 2024).

In Iowa, which applies the codification rule, the result has been just that: litigation over its single-subject clause is alive and well. *See, e.g., LS Power Midcontinent, LLC v. State*, 988 N.W.2d 316, 336 (Iowa 2023) (finding that appellant had shown a likelihood of success on the merits of its single-subject challenge); *Planned Parenthood of the Heartland, Inc. v. Reynolds*, 975 N.W.2d 710, 727 (Iowa 2022) (single-subject challenge decided on the merits); *Godfrey v. State*, 752 N.W.2d 413, 424 (Iowa 2008) (adjudicating timely single-subject challenge); *Utilicorp United Inc. v. Iowa Utilities Bd.*, 570 N.W.2d 451, 455 (Iowa 1997) (same); *Giles v. State*, 511 N.W.2d 622, 626 (Iowa 1994) (specifically noting that the single-subject challenge was timely brought before codification).

Third, the Gun Owners contend that the State's combined positions in *UnitedHealth* and this case functionally make *any* single-subject challenge untimely. Appellee Br. 27. That misunderstands the State's standing and ripeness argument in *UnitedHealth*. In that case, plaintiffs challenge two pieces of the 2024 omnibus: an HMO contracting provision and worker classification provisions. The State conceded that the challenge to the HMO contracting provision was justiciable under standing and ripeness doctrines. *UnitedHealth*, A25-1398, Respondent's Br. 23. But no plaintiff in that case alleged or established that it had changed or would change its behavior in any way due to the worker classification provisions, or was engaged in any conduct that would be affected by those provisions (which do not change how workers are classified; they only change penalties if

misclassification is found). *Id.* at 24-25. In other words, the State’s ripeness challenge in *UnitedHealth* (brought as a partner to a standing challenge) is based on the specific facts applicable to those plaintiffs and the specific nuances of the provisions at issue.

Contrary to the Gun Owners’ hysterics, in both *UnitedHealth* and in this case, the State has conceded standing and ripeness when the facts of the case support it. Indeed, the State has never argued that the Gun Owners’ challenge was unripe, even though—to its knowledge, and still to this day—there has been no prosecution under the binary trigger ban statewide. In short, the State has never argued that pre-enforcement single-subject challenges are *de facto* unripe such that there is a catch-22 between codification and ripeness.

Applying the codification rule will not result in the sky falling. Single-subject challenges brought by parties affected by particular provisions may still be litigated if the Court applies that rule to bar the Gun Owners’ inexplicably belated challenge to the 2024 omnibus.

E. Small Differences in State Codification Processes Are Irrelevant to the Purpose of Codification Rule.

The Gun Owners further argue that the only states with a coherent rationale for adopting the codification rule are states where the legislature periodically re-enacts their entire statutory code because “when a statute has been enacted twice, it cannot be invalidated by identifying procedural defects in only one of the enactments.” Appellee Br. 21-22. But this argument also misses the mark.

Consider Florida, which the Gun Owners cite as a state that has adopted this logical form of the codification rule. Appellee Br. 22 n.8. “Florida follows the ‘codification’ rule under which a single subject violation during the enactment of a law is cured by the legislature’s later act of adopting the law as an official statute that is published in the Florida Statutes.” *State v. Rothauser*, 934 So. 2d 17, 18 (Fla. Dist. Ct. App. 2006). This reenactment occurs annually when the legislature readopts the *entire* code into existing statutes. *See* Fla. Stat. § 11.2421. But this wholesale reenactment of a state’s entire code arguably violates the single-subject requirement—*unless* the single-subject constitutional provision contains an express carve-out for codification bills, which Florida’s does not. *Compare* Fla. Const. art. III, § 6 with Ala. Const. art. IV, § 45; *see also* Ga. Const. art. III, §5, para. III (no carve-out for codification statutes); Idaho Const. art. III, § 16 (same); Iowa Const. art. III, § 29 (same); Neb. Const. art. III, § 14 (same); N.D. Const. art. IV, § 13 (same); S.C. Const. art. III, § 17 (same); S.D. Const. art. III, § 21(same); Texas Const. art. III, § 35 (same); W. Va. Const. art. VI, § 30 (same).

This demonstrates that the reason for adopting the codification rule is not dependent on how the codification process occurs (whether through reenactment by the legislature or a revisor-like official or commission) but based on what the codification process accomplishes—incorporation of the challenged provision into existing statutes. Thus, the fact that other states use different codification procedures than Minnesota does not change the prudence of the codification rule.

Moreover, the Gun Owners agree that Iowa applies its common-sense codification rule to a codification process that mirrors Minnesota’s. *Mabry*, 460 N.W.2d at 475. The

codification rule is one of balance: deference to the legislature and citizens' weighty interest in relying on the legislature's work, against the judiciary's duty to hold the legislature to the text of the constitution. *Id.* And it is a "fair" rule, especially in the context of modern legislating, where bills are closely tracked and the work of the legislature is easily accessible online: it allows challengers time to vindicate their rights under the single-subject clause, while minimizing prejudice to the rest of the population, which has a significant interest in the settling of its laws. *Id.*

Because the Gun Owners inexplicably sat on their rights until well after the binary trigger ban was codified, their challenge should be dismissed as untimely under the codification rule.

CONCLUSION

The Court should deny the Gun Owners' request to invalidate the entire 2024 omnibus, including provisions they lack standing to challenge and in contradiction to the Minnesota Supreme Court's direction. The Court should instead reverse the district court and dismiss the Gun Owners' challenge as untimely under the codification rule.

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CERTIFICATION OF LENGTH OF DOCUMENT

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/s/ Emily B. Anderson

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