STATE OF MINNESOTA **DISTRICT COURT**

COUNTY OF RAMSEY **SECOND JUDICIAL DISTRICT**

Minnesota Gun Owners Caucus,

Plaintiff,

v.

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

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

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

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

Defendants.

Case No.: 62-CV-25-1083
The Honorable Leonardo Castro
Case Type: Civil/Other

ORDER

The above-entitled matter came on for hearings before the Honorable Leonardo Castro, Judge of District Court, on May 13, 2025, and again on July 29, 2025, upon Defendants' Motions to Dismiss and Plaintiff's Motion for Summary Judgment. Plaintiff was represented by Nicholas Nelson, Esq., and James Dickey, Esq. Defendant Mary Moriarty was represented by Matthew Messerli, Assistant Hennepin County Attorney. Defendants Tim Walz, Keith Ellison, and Drew Evans (collectively, "the State Defendants") were represented by Anna Veit-Carter and Emily Anderson, Minnesota Assistant Attorneys General.

Based on the submission of the parties, the arguments of counsel, and all the files, records, and proceedings herein, the Court issues the following Order and memorandum:

ORDER

1. Defendant Mary Moriarty's Motion to Dismiss is **DENIED** as to Count I and **GRANTED** as to Count II**.**

2. The State Defendants' Motion to Dismiss is **DENIED** as to Count I and **GRANTED** as to Count II.

3. Plaintiff's Motion for Summary Judgment on the grounds that 2024 Minn. Laws ch. 127 ("the 2024 Omnibus Bill"), violates article IV, section 17 of the Minnesota Constitution because it embraces more than one subject matter is **GRANTED**.

4. Judgment is **GRANTED** to Plaintiff against Defendants, finding that Article 36, § 2 of the 2024 Omnibus Bill, which amends Minn. Stat. § 609.67, was enacted in violation of article IV, section 17 of Minnesota's Constitution, and Defendants are permanently enjoined and prohibited from taking any action to enforce Article 36, § 2 of the 2024 Omnibus Bill, which was codified as Minn. Stat. § 609.67, subdivision 1(d)(3), and which is hereby severed from the other parts of the 2024 Omnibus Bill.

5. All parties shall pay their own attorneys' fees.

6. The attached Memorandum is made a part of this Order pursuant to Minn. R. Civ. P. 52.02.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Castro, Leonardo (Judge)
Aug 18, 2025 10:41 AM

Dated: August 18, 2025

Leonardo Castro
District Court Judge

MEMORANDUM

I. BACKGROUND

At 9:44 p.m. on May 19, 2024, the last day of the 2024 legislative session, House File 5247 was a tax omnibus bill (roughly 40 pages in length), the title of which began, "A bill for an act relating to taxation . . .." Over the next ten minutes, the bill would experience a metamorphosis.

Beginning at around 9:45 p.m., the Tax Omnibus Conference Committee, in a meeting that lasted less than nine minutes, passed an amendment that folded eight other omnibus bills into what was previously the tax omnibus bill. H.F. 5247 ("CCR-HF5247,") now contained omnibus bills on the following subjects: health, higher education, firearms, energy and agriculture, human services, health and human services, and paid leave.[1] Its contents spanned more than 1,400 pages.

The House took up CCR-HF5247 a short time later, adopting the conference committee's recommended changes and passing the bill sometime around 11:14 p.m.[2] The Senate then took up CCR-HF5247 around 11:36 p.m.,[3] passing it around 11:42 p.m.[4] On May 24, 2024, Governor Tim Walz signed the 2024 Omnibus Bill into law.[5]

In the midst of the 1400-plus pages was an amendment to Minnesota Statutes § 609.67, subdivision 1(d), adding the following description to the definition of a "Trigger Activator": "(3) a device that allows a firearm to shoot one shot on the pull of

[1] *See* Dickey Decl. ¶ 16.
[2] Dickey Decl. Ex. 3.
[3] Dickey Decl. Ex. 4.
[4] Dickey Decl. Ex. 5.
[5] Dickey Decl. Ex. 7.

the trigger and a second shot on the release of the trigger without requiring a subsequent pull of the trigger."[6] This definition describes a device called a binary trigger,[7] and the amendment will be referred to in this memorandum as the "Binary Trigger Amendment."[8]

The contents of the 2024 Omnibus Bill, post-metamorphosis, can be broken down as follows:

1. Transportation, Housing, and Labor Omnibus, H.F. 5242 (CCR-HF5242A),[9] as Articles 1–17;[10]

2. Health Omnibus, H.F. 4247 (CCR-HF4247A)[11], as Articles 18–33[12];

3. Higher Education Omnibus, H.F. 4024 (CCR-HF4024),[13] as Articles 34–35[14];

4. Firearms Provisions, H.F. 2609 (CCR-HF2609),[15] as Article 36;[16]

5. Energy and Agriculture Omnibus, S.F. 4942 (CCR-SF5335),[17] as Articles 37–45;[18]

6. Human Services Omnibus, S.F. 5335 (CCR-SF5335);[19] as Articles 46–53;[20]

7. Health and Human Services Omnibus, S.F. 4699 (CCR-SF4699),[21] as

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[6] *Id.* (p. 577).
[7] *See* Taylor Rhodes, *Binary Trigger vs Forced Reset Trigger (FRT): A Comprehensive Guide*, NATIONAL ASSOCIATION FOR GUN RIGHTS (Feb. 26, 2025), https://gunrights.org/binary-trigger-forced-reset-trigger/.
[8] H.F. 5247, 4th Engrossment, 93d Leg., Reg. Sess. (Minn. 2024), at 582.9–582.10.
[9] *See* Dickey Decl. ¶ 9.
[10] *See* Dickey Decl. ¶ 2 (pp. 6–228).
[11] *See* Dickey Decl. ¶ 10.
[12] *See* Dickey Decl. ¶ 2 (pp. 228–393).
[13] *See* Dickey Decl. ¶ 11.
[14] *See* Dickey Decl. ¶ 2 (pp. 394–434
[15] *See* Dickey Decl. ¶ 12.
[16] *See* Dickey Decl. ¶ 2 (pp. 435–437).
[17] *See* Dickey Decl. ¶ 13.
[18] *See* Dickey Decl. ¶ 2 (pp. 437–564).
[19] *See* Dickey Decl. ¶ 14.
[20] *See* Dickey Decl. ¶ 2 (pp. 564–712).
[21] *See* Dickey Decl. ¶ 15.

Articles 54–67;[22]

8. Tax Omnibus, H.F. 5247 (CCR-HF5247),[23] as Articles 68–72;[24] and

9. Paid Leave Omnibus, H.F. 5363 (4th Engrossment),[25] as Article 73.[26]

As Plaintiff notes, the 2024 Omnibus Bill:

> [C]ontains at least *thirteen* subjects: transportation (Articles 1–3, 17), labor (Articles 4, 6, 8–11), combative sports (Article 5), state employees (Articles 12, 72–73), housing (Articles 14–16), health occupations and licensing (Articles 18–33, 61, 65), higher education (Articles 34–35), firearms (Article 36), agriculture (Article 37–38), energy (Articles 13, 39–45, 58), human services (Articles 46–55, 62–64, 66–67), healthcare (Articles 56–57, 59–60), and taxes (Articles 68–71).[27]

(Pl.'s Summ. J. Mem. 10).

Plaintiff filed its Complaint on February 12, 2025. On March 5, 2025, Defendants filed a Motion to Dismiss the Complaint. On April 15, 2025, Plaintiff filed a Motion for Summary Judgment. The Court heard oral arguments on the motions on May 13, 2025, though Defendants declined to argue the merits of Plaintiff's Motion for Summary Judgment until the Court addressed Defendant's objections regarding Plaintiff's associational standing. On June 4, 2025, the Court issued an Order finding that Plaintiff has established associational standing against Defendants and ordering the parties to submit supplemental briefing on the merits of Plaintiff's motion. (Index No. 46.) On July 29, 2025, the Court heard supplemental oral arguments on Plaintiff's Motion for Summary Judgment.

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[22] *See* Dickey Decl. ¶ 2 (pp. 712–986).
[23] *See* Dickey Decl. ¶ 16.
[24] *See* Dickey Decl. ¶ 2 (pp. 986–1016).
[25] *See* Dickey Decl. ¶ 17.
[26] *See* Dickey Decl. ¶ 2 (pp. 1017–1053).
[27] *See* Dickey Decl. ¶ 2.

I. MOTION TO DISMISS STANDARD

A court should dismiss a complaint when it asserts a non-justiciable claim or fails to state a claim for which the court may grant relief. Minn. R. Civ. P. 12.02(a), (e). When reviewing a motion to dismiss, courts consider the factual allegations in the plaintiff's complaint to be true. *Werlich v. Schnell,* 958 N.W.2d 354, 363 (Minn. 2021). But a court need not give deference to a plaintiff's legal conclusions, opinions, or statements that are general and indefinite. *Bahr v. Capella Univ.*, 788 N.W.2d 76, 81 (Minn. 2010); *Martens v. Minn. Mining & Mfg.*, 616 N.W.2d 732, 747 (Minn. 2000). Dismissal is appropriate when it is clear the plaintiff could introduce no facts consistent with the pleadings that would support granting the relief demanded. *N. States Power Co. v. Franklin*, 122 N.W.2d 26, 29 (Minn. 1963).

II. DEFENDANT MORIARTY'S MOTION TO DISMISS

Defendant Moriarty moves for dismissal of Plaintiff's claims against her for three reasons. First, she argues that she is not the correct defendant for these claims. (Def. Moriarty's Mem. 5.) Second, she argues that Plaintiff lacks associational standing against her because Member C's affidavit states that their binary trigger is currently in the physical possession of someone outside of Minnesota. (Def. Moriarty's Suppl. Mem. 2; Member C Aff., Index No. 61) And third, she argues that even if Plaintiff has associational standing, Plaintiff's claims are not redressable because Plaintiff's members could have been charged under the 2023 amendment to

the statutory trigger activator definition. (*Id.* at 2–3.) The Court will address each of these arguments in turn.

a. Defendant Moriarty need not be excluded from this lawsuit just because other county attorneys were not included.

Defendant Moriarty argues that Plaintiff's claims against her should be dismissed because Plaintiff's "requested relief cannot resolve the at-issue controversy," as Plaintiff's "members would still be subject to the possibility of criminal prosecution by any non-party charged with enforcement of the law." (Def. Moriarty's Mem. 5.) She argues that naming her as a defendant does not make sense when any of the remaining 86 county attorneys in the state could still seek to enforce Minn. Stat. § 609.67. (*Id.*) She cites no case law to support this argument.

In Minnesota, county attorneys are tasked with prosecuting felonies. Minn. Stat. § 388.051, subd. 1(3) (2024). The Binary Trigger Amendment was codified into Minn. Stat. § 609.67 in November of 2024, and took effect on January 1, 2025, making it a felony to possess binary triggers in Minnesota.[28]

Plaintiff cites *Cruz-Guzman v. State* for the rationale that "many non-parties are bound to be affected by a judicial ruling in an action regarding the constitutionality of state statutes or state action, but they cannot all be required to be a part of the suit." 916 N.W.2d 1, 14 (Minn. 2018).

Defendant Moriarty retorts that the *Cruz-Guzman* court, almost in the same breath as the portion Plaintiff cites, affirmed the district court's dismissal of claims

[28] As it relates to this case, this Court takes no position as to the substance of the binary trigger amendment. It is not the place of this Court to concern itself with a statute's propriety, desirability, wisdom, or its practicality.

against schools "who might be affected by 'actions potentially taken by the State in response to th[e] litigation[.]" (Def.'s Reply Mem. 2) (quoting *Cruz-Guzman*, 916 N.W.2d at 14). Defendant Moriarty's emphasized portion undermines her argument. The *Cruz-Guzman* court affirmed the dismissal of the schools as defendants because the State's argument "prematurely speculate[d] about hypothetical remedies." 916 N.W.2d at 14. Here, there is no speculation or hypothetical situation.

Courts have held that the proper defendants in constitutional challenges are those governmental officials "connected to the enforcement of the relevant law." *See Doe v. Piper*, 165 F.Supp.3d 789, 801 (D. Minn. 2016). Defendant Moriarty argues that she is not a proper defendant because other county attorneys in Minnesota could also enforce the Binary Trigger Amendment law. (*See* Def. Moriarty's Mem. 5). One of Plaintiff's members lives in Hennepin County, where Defendant Moriarty serves as the county attorney. (Compl. ¶ 18.) Minnesota law tasks Defendant Moriarty with prosecuting felonies. *See* Minn. Stat. § 388.051, subd. 1(3) (2024). The Binary Trigger Amendment made owning the type of trigger the anonymous member owns a felony. *See* Minn. Stat. § 609.67. (*See also* Compl. ¶ 18(c).)

The fact that other county attorneys may also be proper defendants had this lawsuit been brought against them does not change the fact that Defendant Moriarty is directly tasked with enforcing the challenged law, and is therefore a proper defendant.[29]

[29] Plaintiff also cites to a footnote from a District of Minnesota case, in which the court "reject[ed] 'the curious argument' that a constitutional challenge was improper 'because individuals other than [the Minnesota Attorney General] and [the Douglas County Attorney] can enforce' the challenged

b. Plaintiff may challenge the procedural constitutionality of the 2024 Omnibus Bill on behalf of Member C.

In her supplemental briefing in support of her motion to dismiss, Defendant Moriarity asserts that Member C, who is a resident of Hennepin County, "does not have a credible threat of prosecution for a crime of possession where they do not currently possess the item at issue." (Def. Moriarty's Suppl. Mem. 2.) She argues that because Member C stated in their affidavit that they do not currently physically have the binary triggers in-state, Plaintiff cannot have standing by association on behalf of that member, and that therefore Defendant Moriarty "simply cannot charge Member C under the challenged statute." (*Id.*; Member C Aff., Index No. 61) Though it may be true that Defendant Moriarity cannot *currently* charge Member C under the challenged statute, this Court disagrees that that fact means Member C—and Plaintiff, by association—cannot challenge the procedural constitutionality of the statute.

Member C stated that they want to actually possess the binary trigger they own. They cannot do so, however, without subjecting themselves to a risk of prosecution under the Binary Trigger Amendment. And even if Member C is not under *current* threat of prosecution, Plaintiff's other two Members (Member A and Member B) both affirmed that they currently possess binary triggers within Minnesota. Therefore, Plaintiff undoubtedly has associational standing. And

statute." (Pl.'s Resp. Mem. 24) (quoting *Kohls v. Ellison*, No. 24-cv-3754 (LMP/DLM), 2025 WL 66765 at *6, n.2 (D. Minn. Jan. 10, 2025).

Defendant Moriarty, as the county attorney of the most populous county in Minnesota, is still tasked with enforcing the binary trigger law.

c. Plaintiff's members cannot be charged under the 2023 trigger activator amendment.

Finally, Defendant Moriarty asserts that "the Complaint's failure to challenge the 2023 version of the same statute ensures any relief sought here will be incapable of redressing the claimed, speculative, threat of injury." (*Id.*) She asserts, "If Member C can be prosecuted for possession of a trigger activator under Minn. Stat. § 609.67, subd. 1(d)(3) (2024), then they can be prosecuted for possession of a trigger activator under Minn. Stat. § 609.67 subd. 1(d)(2) (2023)." (*Id.* at 2-3.)

But if that assertion was correct, the Legislature would have had no need to *add* the Binary Trigger Amendment in the first place. In 2023, the following definition of the term "Trigger Activator" was added to Minn. Stat. § 609.67 subd. 1(d)(2):

> A device that allows a semiautomatic firearm to shoot *more than one shot with a single pull of the trigger* or by harnessing the recoil of energy of the semiautomatic firearm to which it is affixed so that the trigger resets and continues firing without additional physical manipulation of the trigger.[30]

(emphasis added). This type of trigger is known as a "forced reset trigger," or "FRT."[31] Minn. Stat. § 609.67, subd. 1(d)(3) (2024), on the other hand, adds the following to the definition of a "Trigger Activator": "a device that allows a firearm to shoot *one shot on*

[30] *See* S.F. 2909, 4th Engrossment, 93d Leg., Reg. Sess. (Minn. 2024), at 65.27–65.30.
[31] *See* Taylor Rhodes, *Binary Trigger vs Forced Reset Trigger (FRT): A Comprehensive Guide*, NATIONAL ASSOCIATION FOR GUN RIGHTS (Feb. 26, 2025), https://gunrights.org/binary-trigger-forced-reset-trigger/.

the pull of the trigger and a second shot on the release of the trigger without requiring a subsequent pull of the trigger." (Emphasis added). This is known as a binary trigger.[32]

FRTs and binary triggers "function in fundamentally different ways and are designed for different firearm platforms."[33] A binary trigger does not allow for more than one shot on the pull of a trigger. Defendant Moriarty, therefore, is incorrect in asserting that Plaintiff's members—who have stated that they own binary triggers—could have been prosecuted under Minn. Stat. § 609.67 subd. 1(d)(2) (2023). Because this argument and each of her previous arguments fail for the various stated reasons, Defendant Moriarty's motion to dismiss must be denied as to Count I.[34]

III. STATE DEFENDANTS' MOTION TO DISMISS[35]

The State Defendants move to dismiss the Complaint on several grounds. First, they assert that Single Subject and Title Clause Challenges pose a nonjusticiable political question. Second, the State Defendants urge this Court to adopt a "codification rule," which has never been considered by courts of this state but has been adopted by several other states. Finally, they argue that Count II of the Complaint should be dismissed because the Remedies Clause does not provide an

[32] *See id.*
[33] *Id.*
[34] For reasons explained, *infra*, at p. 14, Count II is dismissed against all Defendants.
[35] Defendants also argue for severance as an appropriate remedy in their Motion to Dismiss memoranda. Severance is addressed in depth, *infra*, at pp. 20–25.

independent basis for a Single Subject and Title Clause Challenge.[36] Each argument will be addressed in turn.

a. Whether Single Subject and Title Clause challenges present a nonjusticiable political question is not for this Court to decide.

"[I]t is not the role of *this* court to make a dramatic change in the interpretation of the Minnesota Constitution when the supreme court has not done so." *State v. Rodriguez*, 738 N.W.2d 422, 431 (Minn. Ct. App. 2007) (citing *Minn. State Patrol Troopers Ass'n ex rel. Pince v. State, Dep't of Pub. Safety*, 437 N.W.2d 670, 676 (Minn. Ct. App. 1989), *review denied* (Minn. May 24, 1989)). If it is not the role of the Minnesota Court of Appeals to make dramatic changes when interpreting the state constitution, it is certainly not the role of the district court.

The Minnesota Supreme Court has considered dozens of single Subject and Title Clause challenges since 1857.[37] As far as this Court is aware, in none of those cases has the supreme court intimated that these challenges present a nonjusticiable political question. As counsel for the State Defendants conceded during the first oral arguments on these motions, this argument poses a question for a different court on a different day.

Therefore, the State Defendants' Motion to Dismiss on the basis that the Single Subject and Title Clause challenges present a nonjusticiable political question must be denied.

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[37] *See* Ben Johnson, *Embraced & Expressed: Minnesota's Single Subject and Title Clause*, MINN. HOUSE RSCH. 4 (2020) (summarizing history of the Single Subject and Title Clause).

b. Whether Minnesota should adopt a "codification rule" for Single Subject and Title Clause Challenges is not for this Court to decide.

The State Defendants urge this Court to adopt a "codification rule," which would mean that "any defects in the title or subject of a bill are cured when the bill is subsequently codified into the specific statutes." (State Def.'s Mem.11). They point to an Iowa state supreme court case[38] as the ideal and acknowledged during oral argument that no Minnesota court has considered adopting the rule before now.

Plaintiff presents extensive and compelling arguments for why the rule, as applied by other states, does not translate well to Minnesota's legislative process. But like the issue of the political question doctrine, this Court believes both parties' arguments should be made to a different court on a different day.

"The task of extending existing law falls to the supreme court or the legislature, but it does not fall to this court." *State v. Rodriguez*, 738 N.W.2d 422, 432 (Minn. Ct. App. 2007) (citing *Terault v. Palmer*, 413 N.W.2d 283, 286 (Minn. Ct. App. 1987), *review denied* (Minn. Dec. 18, 1987)). Similarly to Defendants' political question argument, here, the State Defendants urge this Court to do something it cannot, should not, and will not do. The Court declines to adopt a rule which, had it been effective previously, would have caused many of the Single Subject and Title Clause challenges to be dismissed.

Therefore, the State Defendants' Motion to Dismiss on the basis that this Court should adopt a "codification rule" must be denied.

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[38] *See State v. Mabry*, 460 N.W2d 472, 475 (Iowa 1990).

c. The Remedies Clause does not create a cause of action for a Single Subject and Title Clause Challenge.

The Minnesota Supreme Court "normally interpret[s] the Remedies Clause as preventing the Legislature from abrogating recognized common-law causes of action." *State v. Lindquist*, 869 N.W.2d 863, 873–74 (Minn. 2015). The Remedies Clause does not provide a "separate and independent source of legal rights on which to base a declaratory judgment action." *Hoeft v. Hennepin Cnty.*, 754 N.W.2d 717, 726 (Minn. Ct. App. 2006).

Plaintiff appears to have conceded, at the hearings and in the supplemental briefing in this matter, that the Remedies Clause does not provide a basis upon which this Court could afford Plaintiff its requested remedy. Moreover, because Plaintiff gets—at least the crucial portion of—the remedy it requests under the Single Subject and Title Clause, its request under the Remedies Clause is unnecessary to its case.

Therefore, the State Defendant's motion to dismiss Count II of the Complaint in this matter is granted.[39]

IV. PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT[40]

a. Summary Judgment Standard

Summary judgment is appropriate when there is no genuine issue of material fact, and a party is entitled to judgment as a matter of law. Minn. R. Civ. P. 56.03.

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[39] Defendant Moriarty joins in the State Defendants' arguments and Count II is dismissed against her as well.

[40] Both sides address the legislative history of the 2024 Omnibus Bill and the Binary Trigger Amendment. The Minnesota Supreme Court has indicated that germaneness, and *not* the legislative history of the challenged legislation, is relevant in a challenge under the single subject clause. *See Otto*, 910 N.W.2d at 457, n.10 (stating that though legislative history was discussed extensively in *Associated Builders*, it is not required in a Single Subject Clause analysis).

"A motion for summary judgment shall be granted when the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue of material fact and that either party is entitled to a judgment as a matter of law." *Fabio v. Bellomo*, 504 N.W.2d 758, 761 (Minn. 1993) (citing Minn. R. Civ. P. 56.03). Summary judgment is not appropriate when reasonable minds could differ and draw different conclusions from the evidence presented. *DLH, Inc. v. Russ*, 566 N.W.2d 60, 69 (Minn. 1997) (citing *III. Farmers Ins. Co. v. Tapemark Co.*, 273 N.W.2d 630, 634 (Minn. 1978)).

A party opposing summary judgment may not rely merely on its pleadings but must present specific facts demonstrating there is a genuine issue of material fact for trial. *W.J.L. v. Bugge*, 573 N.W.2d 677, 680 (Minn. 1998); Minn. R. Civ. P. 56.05. The court must view the facts in the light most favorable to the nonmoving party. *Bugge*, 573 N.W.2d at 680. "Where the record taken as a whole could not lead a rational trier of fact to find for the nonmoving party, there is no genuine issue for trial." *DLH*, 566 N.W.2d at 69 (quoting *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986)).

Once the moving party has established a prima facie case that it is entitled to summary judgment, the burden shifts to the nonmoving party to present specific facts that raise a genuine issue for trial. *Bebo v. Delander*, 632 N.W.2d 732, 737 (Minn. Ct. App. 2001). A genuine issue of material fact exists when a fact may be reasonably resolved in favor of either party. *DLH*, 566 N.W.2d at 69. If any legitimate doubt exists as to the existence of a genuine issue of material fact, the doubt must be

resolved in favor of finding that the fact issue exists. *Poplinski v. Gislason*, 397 N.W.2d 412, 414 (Minn. Ct. App. 1986), *rev. denied* (Minn. 1987). However, there is no genuine issue of material fact for trial when the nonmoving party presents evidence which merely creates a metaphysical doubt as to a factual issue. *Id.* at 71. The evidence offered in opposition to summary judgment must also meet the substantive admissibility criteria to defeat the motion. *Richie v. Paramount Pictures Corp.*, 544 N.W.2d 21 (Minn. 1996).

b. The Single Subject and Title Clause

Courts should presume Minnesota statutes to be constitutional and exercise "extreme caution" in declaring them otherwise. *Associated Builders & Contractors v. Ventura*, 610 N.W.2d 293, 299 (Minn. 2000) (citing *State v. Behl*, 564 N.W.2d 560, 566 (Minn. 1997); *State v. Merrill*, 450 N.W.2d 318, 321 (Minn. 1990)). "The Challenger of the constitutional validity of a statute must meet the very heavy burden of demonstrating beyond a reasonable doubt that that the statute is unconstitutional." *Associated Builders*, 610 N.W.2d at 299 (citing *Behl*, 564 N.W.2d at 566; *Merrill*, 450 N.W.2d at 321).

The Single Subject and Title Clause of the Minnesota Constitution, article IV, section 17, mandates that "[n]o law shall embrace more than one subject, which shall be expressed in its title." Minn. Const. art. IV, § 17.

"The purpose of the Single Subject and Title Clause [is to] prevent 'log-rolling legislation' or 'omnibus bills.'" *Associated Builders*, 610 N.W.2d at 299 (quoting *Johnson v. Harrison*, 50 N.W. 923, 924 (1891)). The title provision "is intended to

prevent fraud or surprise upon the legislature and the public by prohibiting the inclusion of 'provisions in a bill whose title gives no intimation of the nature of the proposed legislation." *Associated Builders*, 610 N.W.2d at 300 (quoting *Johnson*, 50 N.W. at 924). The single subject provision acts as a guardrail for the scope of legislation, requiring that each act "embrace some one general subject; and by this is meant, merely, that all matters treated of should fall under some one general idea, be so connected with or related to each other, either logically or in popular understanding, as to be parts of, or germane to, one general subject." *Johnson*, 50 N.W. at 924. The Minnesota Supreme Court has explained that both clauses should be construed liberally. *See Associated Builders*, 610 N.W.2d at 299–300.

The pertinent test for whether a challenged portion violates the single subject clause is whether the challenged portion is germane to the subject or theme of the bill. *Otto*, 916 N.W.2d at 457–58.

The Minnesota Supreme Court has addressed Single Subject and Title Clause challenges twice in the twenty-first century, first in *Associated Builders*, 610 N.W.2d 293 (2000), and later in *Otto v. Wright County*, 910 N.W.2d 446 (2018). *Associated Builders* provides a thorough history of the clause's origination at the 1857 constitutional convention and the subsequent notable case law addressing the clause in the nineteenth and twentieth centuries.[41]

The court in *Associated Builders* examined whether a prevailing wage amendment was germane to the general subject of "financing and operation of local

[41] *See Associated Builders*, 610 N.W.2d at 299–302; *see also, Embraced and Expressed: Minnesota's Single Subject and Title Clause* 2–13, Ben Johnson, MINN. HOUSE RSCH (Dec. 2020).

government." 610 N.W.2d at 302. The court called the 247-page "Omnibus Tax Act" with its 16 articles, a "prodigious work of legislation." *Id.* at 297. It held that the prevailing wage amendment failed the germaneness test, stating that "to construe an amendment requiring prevailing wages that lacks any express limitation to public funding as related to the subject of financing and operation of state and local government would push the mere filament to the mere figment." *Id.* at 303.[42]

The court expressed a strong preference for severance as a remedy for Single Subject and Title Clause violations, declining to invoke the "draconian result of invalidating the entire law" where the challenged portion was not germane to the "subject of otherwise massive legislation." *Id.* at 306. Central to a court's "determination to sever a provision from a law is whether 'all the provisions are connected in subject-matter.'" *Id.* at 307 (quoting *Anderson v. Sullivan*, 75 N.W. 8, 10 (Minn. 1898)). The court emphasized the principle of judicial restraint, stating that:

> [I]t could well be argued that to hold an entire law unconstitutional, when the great weight of the other provisions are so singularly related to the common theme of tax relief and reform, would be overstepping [the court's] judicial bounds in disregard of the constitutional principle of separation of powers.

Id. at 305 (citing *Koehnen v. Dufour*, 590 N.W.2d 107, 113 (Minn. 1999)). The court therefore severed the prevailing wage amendment from the law, closing its opinion by holding that, "[w]here the common theme of the law is clearly defined by its other provisions, a provision that does not have any relation to the common theme is not

[42] The *Otto* court clarified that "while filaments and figments may have been helpful concepts" in making germaneness determinations in earlier caselaw, the only actual test the court has applied is that of germaneness. *Otto*, 916 N.W.2d at 458.

germane, is void, and may be severed." *Id.* at 307.

Then, in *Otto v. Wright County*, the supreme court further emphasized judicial restraint in dealing with single subject challenges. It declined to sever the challenged portion of the 2015 State Government Omnibus Bill, finding that a "provision that allows counties to choose between the State Auditor and a private CPA firm for the annual audit required by statute, overseen by the State Auditor and subject to the State Auditor's review and further audit, [was] clearly germane to the subject of state government operations." 916 N.W.2d at 457.

The court declined to "strike down a germane provision of a law simply because other provisions in the law are not germane." *Id.* at 458. It rejected arguments that implied that it "did not conclude that the Single Subject Clause [was] violated" in that case, "the clause is effectively meaningless." *Id.* It emphasized that it had "upheld the legislation at issue in all but one of the single-subject challenges" over the past 40 years, "not because [it has] adopted an unduly deferential approach to reviewing legislation for compliance with the Minnesota Constitution or because [it does] not share the concerns that members of [the] court have expressed from time to time regarding the legislative process." *Id.* at 458–59.

The *Otto* court concluded its opinion by reaffirming its commitment to its "constitutional duty to 'prohibit infringements by either the legislative or executive branch of the government of [the] constitutional rights vested in the people.'" *Id.* at 4559 (quoting *State ex rel. Mattson v. Kiedrowski*, 391 N.W.2d 777 (Minn. 1986) (Yetka, J., concurring)).

c. Analysis

In this case, the parties agree on one thing: the Binary Trigger Amendment is not germane to the subject of the 2024 Omnibus Bill. The parties disagree about whether the 2024 Omnibus Bill has a prevailing subject which the Binary Trigger Amendment could be fairly severed from. Defendants argue that the analysis for determining what the overall subject of the bill is begins with looking to the general subject in the bill's title, and that therefore the subject of the 2024 Omnibus Bill, is "the operation and financing of state government." Defendants further argue that that overall subject is shared by some of the—nine separate—omnibus bills that were folded into the larger bill, and that those, "and the others combined in the 2024 Omnibus, have many provisions that hold together under the subject 'operation and financing of state government.'" (State Defs.' Suppl. Mem. 13–14.)

Plaintiff disagrees that the common theme of the 2024 Omnibus is the operation and financing of state government and asserts instead that it does not have a common theme. Plaintiff argues that "[w]hen a statute's provisions *do* have a predominating single theme, the [Minnesota] Supreme Court does just what Defendants request: it respects that common theme and strikes only the non-germane provisions." (Pl.'s Suppl. Mem. 9.) It asserts that, with the exception of one case from over a century ago,[43] the Minnesota Supreme Court has always been able to discern a common theme and has thus employed severance to bring the law into constitutionality, but that because there is no common theme here, this Court should

[43] *See State v. Women's & Children's Hosp.*, 173 N.W. 402 (Minn. 1919).

invalidate the entire 2024 Omnibus Bill.

Plaintiff argues that the language of *Associated Builders* and *Otto* support this position. (Pl.'s Suppl. Mem. 7–8.) It points to the court's conclusion in *Associated Builders*, that "when *the great weight of the other provisions are so singularly related* to the common theme of tax relief and reform," severance was the appropriate remedy. *See Associated Builders*, 610 N.W.2d at 305 (emphasis added). Plaintiff also points to the similar language in *Otto*, where the court stated that the provisions in a law need to be "'so connected or related to each other'" so as to be "'parts of, or germane to, one general subject.'" 910 N.W.2d at 456 (quoting *Townsend v. State*, 767 N.W.2d 11, 13 (Minn. 2009)).

This Court agrees with the State Defendants that the first step in ascertaining the general subject of the bill is to look at the title of the bill. For one thing, courts have looked to the general subject again and again when discussing the common themes.[44] And for another, the Legislature's own joint rules instruct them to state the general subject of the bill in the beginning of the title.[45]

But it does appear that discerning the common theme cannot come *only* from reading the title. Precedent seems to suggest that the theme must also run throughout—at least a meaningful portion—of the bill's contents, and that that common theme must be identifiable *before* the Court can reach the issue of severance

[44] *See, e.g., Otto*, 910 N.W.2d at 456 (using general subject listed in beginning of bill as starting point for the germaneness analysis for challenged portion); *see also Associated Builders*, 610 N.W.2d at 299–302 (doing same and summarizing similar analyses in prior cases).
[45] *See* Dickey Decl. ¶ 21; *see also* Dickey Decl. ¶ 20, THE OFFICE OF THE REVISOR OF STATUTES, MINNESOTA REVISOR'S MANUAL 12–13 (2013), https://www.revisor.mn.gov/static/office/2013-Revisor-Manual.fc22eeba4f7b.pdf.

of the challenged portion. *See Associated Builders*, 610 N.W.2d at 307 ("Where the common theme of the law is clearly defined by its other provisions, a provision that does not have any relation to that common theme is not germane, is void, and may be severed.").

The *Otto* court held that the subject of "the operation of state government" was not impermissibly broad, so long as the content of the legislation "addresses the roles and responsibilities of state entities." 916 N.W.2d at 457.

The State Defendants' argument asks this Court to read the title of the bill and skip blindly to the challenged portion, or, if going further, to take for granted that the fact that "several" of the omnibus bills that were folded into the 2024 Omnibus Bill shared the subject of "the operation of state government" is enough to conclude that the bill has a common theme. Plaintiff, on the other hand, asks this Court to do what the Minnesota Supreme Court has not yet done—or at least not done for over a century—and invalidate the entirety of the 2024 Omnibus Bill.

"In remedying constitutional deficiencies, the judiciary should be hesitant to declare more of a law unconstitutional than absolutely necessary to avoid 'overstepping our judicial bounds in disregard of the constitutional principle of separation of powers.'" *Unity Church of St. Paul v. State*, 694 N.W.2d 585 (Minn. Ct. App. 2005) (quoting *Associated Builders*, 610 N.W.2d at 305).

Here, the Legislature titled the bill with one of the broadest titles conceivable: "the operation and financing of state government."[46] And yet it is difficult to say that

[46] Though not as broad as the title of the Tax Omnibus Bill examined in *Associated Builders*, which,

even that very broad subject can fairly be called the common theme of the gargantuan bill. The 2024 Omnibus Bill contains legislation on taxes, health, higher education, firearms, energy and agriculture, human services, health and human services, and paid leave. Its contents span more than 1,400 pages with 73 articles. The 247-page "Omnibus Tax Act" with 16 articles, which the *Associated Builders* court called a "prodigious work of legislation" pales in comparison. *See Associated Builders*, 610 N.W.2d at 297.

As discussed above, appellate courts in Minnesota have emphasized a strong preference for employing severance rather than wholesale invalidation whenever possible in Single Subject and Title Clause Challenges. In expressing that preference, the courts have emphasized the principles of judicial restraint and the separation of powers. It is with that precedent in mind that this Court makes its decision regarding the 2024 Omnibus Bill.

However, this Court shares the concerns of Justices Anderson and Page in their dissents in *Associated Builders*. Justice Anderson asserted that "[n]ot only would severance encourage 'logrolling,' it may well facilitate it." *Associated Builders*, 610 N.W.2d at 312 (Anderson, J., dissenting). "By allowing severance," he warned, the courts "essentially permit[] the legislature to pass whatever bills it pleases, knowing that if challenged, the court will strike only the challenged provisions." *Id.* Justice Anderson worried that the court "may have been overly deferential to the

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though its contents varied far less than the bill at issue here, bore a title that began with, "An act relating to the financing and operation of state and local government." *See Associated Builders*, 610 N.W.2d at 297.

legislature's continuing abuses in this area," noting that in the years previous the court had "warned the legislature that omnibus legislation [would] receive greater scrutiny under" the Single Subject and Title Clause but that the continued "recurring nature" of massive legislation should have indicated "to the court that [its] colleagues' warnings [had] gone unheeded." *Id.* Eighteen years later, the *Otto* court closed its opinion by expressing its confidence that "the Legislature [had] heard, and [would] heed, these warnings." 910 N.W.2d at 459.

When surveying the 1,400-plus pages, 73 articles, and more than a dozen disparate topics that comprise the 2024 Omnibus Bill now before this Court, one cannot help but conclude that Justice Anderson's concerns were apt, and that the *Otto* court's confidence was misplaced. In this case, severance of the challenged portion alone will not bring the 2024 Omnibus Bill into constitutional compliance—not even close. Instead, that burden will be shifted to the people and businesses of Minnesota who will be forced to bring hundreds of lawsuits over the next few years before the statute of limitations expires to hack off, piece by piece, its many offending portions.

d. Conclusion

Defendants concede that the Binary Trigger Amendment is not germane to the common theme of the 2024 Omnibus Bill. The 2024 Omnibus Bill violates the Single Subject and Title Clause, because, at best, it contains many non-germane parts, and at worst, has no identifiable common theme. Therefore, Plaintiff's Motion for Summary Judgment must be granted, and the only question is which remedy is

appropriate: wholesale invalidation of the 2024 Omnibus Bill or severance of the offending portion now before the Court.

Out of respect and deference for Minnesota Supreme Court precedent favoring severance wherever possible, this Court will go no further than severing the Binary Trigger Amendment from the 2024 Omnibus Bill. But make no mistake, during the late hours of May 19, 2024, lawmaking did not "occur within the framework of the constitution."[47] This Court respectfully suggests that if there has ever been a bill without a common theme and where "all bounds of reason and restraint seem to have been abandoned,"[48] this is it; and if there has ever been a time for the "draconian result of invalidating the entire law,"[49] that time is now.

[47] *See Associated Builders*, 610 N.W.2d at 303.
[48] *Id*. at 302 (quoting *Mattson*, 391 N.W.2d at 784 (Yetka, J., concurring)).
[49] *Id.* at 305.