IN THE CIRCUIT COURT OF COLE COUNTY
NINETEENTH JUDICIAL CIRCUIT
STATE OF MISSOURI

ARTICLE III INSTITUTE, ET AL. Plaintiffs, v. STATE OF MISSOURI, ET AL. Defendants.	Case No. 24AC-CC08732

MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

FACTS

In each legislative session held by the Missouri General Assembly from 2020 through 2024, legislators have never had to contend with fewer than 2,000 bills. SUMF ¶¶ 28–32. In the 2024 legislative session Missouri legislators filed 2,324 bills, one of which was SB 754. SUMF ¶ 32. SB 754 was truly agreed to and finally passed on May 17, 2024. SUMF ¶ 4. Governor Parson signed the bill on or about July 9, 2024, and its effective date by operation of Article III § 29, of the Missouri Constitution was August 28, 2024. SUMF ¶ 5. The title of SB 754, as enacted and signed by the governor, was:

> To repeal sections 211.031, 211.071, 217.345, 217.690, 547.031, 556.021, 558.016, 558.019, 568.045, 571.015, 571.070, 575.010, 575.353, 578.007, 578.022, 579.065, 579.068, 590.192, 590.653, 600.042, and 610.140, RSMo, and to enact in lieu thereof twenty-nine new sections **relating to public safety**, with penalty provisions and a delayed effective date for a certain section. (emphasis added). SUMF ¶ 6.

SB 754 created § 211.600, RSMo., a provision that did not previously exist as a part of Missouri's Revised Statutes. SUMF ¶ 7. Nothing in the title of SB 754 notifies legislators or members of the public that the bill would create § 21.600. SUMF ¶ 8. SB 754 also created §

307.018, RSMo., a provision that did not previously exist as a part of Missouri's Revised Statutes. SUMF ¶ 9. Nothing in the title of SB 754 notifies legislators or members of the public that the bill would create § 307.018. SUMF ¶ 10. And SB 754 created § 547.500, RSMo., a provision that did not previously exist as a part of Missouri's Revised Statutes, SUMF ¶ 11, and, again, nothing in the title of SB 754 notifies legislators or members of the public that the bill would create § 547.500. SUMF ¶ 12. SB 754 created several other sections as well, none of which previously existed as a part of Missouri's Revised Statutes—and nothing in the title of SB 754 notified legislators or members of the public that the bill would create these sections. This includes Sections 565.258, 571.031, 575.151, 579.021, and 579.022. *See* SUMF ¶¶ 14–15, 19–26.

Section 565.258.2, which was created by SB 754, authorizes direct expenditures of tax revenue to pay members of the "Stop Cyberstalking and Harassment Task Force" the "necessary and essential expenses incurred in attending meetings of the task force." SUMF ¶ 16. Section 565.258.5, which was created by SB 754, authorizes direct expenditures of tax revenue in the form of "administrative support" that the Department of Public Safety is required to provide to the "Stop Cyberstalking and Harassment Task Force." SUMF ¶ 17. SB 754 amended § 600.042, to add a new subsection, § 600.042.6, which creates a new "Public Defender – Federal and Other Fund" within the state treasury and declares that it "shall be funded annually by appropriation." SUMF ¶ 27.

I. The Plaintiffs have standing to challenge the validity of SB 754.

Plaintiff Article III Institute is a Missouri nonprofit corporation dedicated to educating the public and public officials about the limits that the Missouri Constitution imposes on the Missouri General Assembly's powers, and about enforcing those limits through litigation. SUMF ¶ 2. The Article III Institute was established for the purpose of representing the interests of Missouri citizens and taxpayers in ensuring that the state legislature complies with the procedural limitations Missourians adopted in Article III of the Missouri Constitution. SUMF ¶ 3. Plaintiff

Paul Hamby is a Missouri citizen, a Missouri taxpayer, and a member of the Article III Institute's board. SUMF ¶ 1.

The Missouri Supreme Court has stated that a taxpayer has standing to challenge the validity of a bill if any provision of that bill would result in the direct expenditure of tax revenues. *Mo. Coalition for the Environment v. State*, 579 S.W.3d 924, 926–27 (Mo. banc 2019); *see also Nicholson v. State*, No. SC 101308, 2026 WL 202013 (Mo. banc Jan. 23, 2026) (finding taxpayer standing where plaintiff alleged challenged bill resulted in government action relying on a provision in the bill). Plaintiff Hamby is a Missouri taxpayer. SB 754 includes at least two statutes, § 565.258.5 and § 600.042.6, which result in the direct expenditure of tax revenues. As a result, the Plaintiffs have standing to challenge the validity of SB 754.[1]

II. The Plaintiffs are entitled to summary judgment regarding the unconstitutionality of SB 754.

Summary judgment is proper if the moving party establishes that there is no genuine issue as to the material facts and the movant is entitled to judgment as a matter of law. *Green v. Fotoohighiam*, 606 S.W.3d 113, 115 (Mo. banc 2020). Here, the Plaintiffs have presented a pure question of law—there can be no legitimate dispute about any of the material facts. Under these circumstances, it would be appropriate for the trial court to enter summary judgment in favor of the Plaintiffs.

A. Article III § 23 requires Missouri courts to invalidate bills whose titles are so broad or amorphous that they do not adequately inform legislators or the general public as to their contents.

Article III, section 23 of the Missouri Constitution establishes a general proposition that bills passed by the General Assembly must not address more than one subject, and that subject must be "clearly expressed" in the bill's title.[2] Missouri courts have determined that this provision establishes two distinct requirements: a bill must have a "single subject," and it also

[1] The Government has notified the Plaintiffs that it does not intend to dispute their standing to bring this challenge.

[2] This provision includes certain exceptions that do not apply to this case.

must have a "clear title." *Calzone v. Interim Comm'r of Dep't of Elementary and Secondary Educ.*, 584 S.W.3d 310, 322 (Mo. banc 2019). This section is a mandatory— not directory— constitutional provision that has been part of every Missouri constitution since 1865. *Carmack v. Director, Mo. Dep't of Agric.*, 945 S.W.2d 956, 959 (Mo. banc 1997).

The "Clear Title" provision was designed to prevent fraudulent, misleading, and improper legislation by requiring the title to indicate in a general way the kind of legislation being enacted; a provision that goes beyond a limitation in the title is invalid because such title affirmatively misleads the reader. *Nat'l Solid Waste Mgmt. Ass'n v. Dir. of Dep't of Nat. Res.,* 964 S.W.2d 818, 820 (Mo. banc 1998). The Clear Title requirement is a way of ensuring that both legislators and members of the public are informed in a useful way as to the content of bills the legislature is considering. *Home Builders Ass'n of Greater St. Louis v. State*, 75 S.W.3d 267, 269 (Mo. banc 2002).

"The clear title requirement is violated 'when the final title of the passed bill is underinclusive or too broad and amorphous to be meaningful.'" *Cedar Cnty. Comm'n v. Parson*, 661 S.W.3d 766, 773 (Mo. banc. 2023) (citation omitted, modifications adopted). The requirement's goal is to relieve lawmakers or interested members of the public of the need "to painstakingly search through the language of bills to determine if there is something there adverse to their interest" and to ensure that legislators "will not be misled into overlooking or carelessly or unintentionally voting for vicious and incongruous legislation, and interested people will be notified of the subjects of legislation being construed in order to have an opportunity to be heard thereon." *St. Louis Cnty. Water Co. v. Pub. Serv. Comm'n*, 579 S.W.2d 633, 635 (Mo. App. E.D. 1979) (citations and quotes omitted). Courts are obliged to strike down bills with overbroad titles because failing to do so would defeat this essential purpose of the Clear Title requirement, rendering it meaningless. *Home Builders Ass'n*, 75 S.W.3d at 270.

Every legislative session sees thousands of bills put before the General Assembly. There is no way that any legislator or citizen could keep track of each individual bill, particularly as the bills are amended in their progress through the legislature. In *Cedar County Commission,* the

Missouri Supreme Court noted that the Clear Title requirement was designed to ensure that legislators or citizens have sufficient information about the contents of each bill that they will be able to identify and track the progress of those that might address issues of particular importance to those legislators or citizens. The Missouri Court of Appeals has gone into even greater detail, explaining:

> The object of the requirement is that the title, like a guideboard, indicate the general contents of the bill, and contain but one general subject, which might be expressed in a few or a greater number of words. The evil to be avoided by this constitutional requirement is the imposition upon the members of the legislature and interested people that they be required to painstakingly search through the language of bills to determine whether there is something there adverse to their interest. By requiring an 'honest' title one which is not designed as a cover the legislators will not be misled into overlooking or carelessly or unintentionally voting for vicious and incongruous legislation, and interested people will be notified of the subjects of legislation being construed in order to have an opportunity to be heard thereon.

St. Louis Cnty. Water Co, 579 S.W.2d at 635 (citations and quotes omitted). Overbroad titles defeat this essential purpose of the Clear Title requirement, rendering it meaningless. *Home Builders Ass'n*, 75 S.W.3d at 270.

B. Article III § 23 requires Missouri courts to invalidate bills whose titles include some—but not all—sections of Missouri law that the bill would change.

Another way a bill might violate the Clear Title requirement is if its title provides a reader detailed—yet incomplete—information about what changes the bill will make to existing law. Missouri courts consider a bill's title to be "underinclusive" if its terms indicate a limitation or restriction of the scope of the bill, but then one or more provisions of the bill go beyond that limitation or restriction. *See, e.g., Nat'l Solid Waste Mgmt. Ass'n*, 964 S.W.2d at 821. Where a bill title "descends to particulars the particulars stated become the subject of the act, which must conform to the title as expressed by the particulars." *Drury v. City of Cape Girardeau*, 66 S.W.3d 733, 739 (Mo. banc 2002) (citation omitted). If a bill title is underinclusive, "portions of the bill that fall outside the scope of the title may be invalidated and severed from the remainder of the bill," whereas if the title is too broad or amorphous, the entire bill will normally be held invalid. *Home Builders Ass'n*, 75 S.W.3d at 272.

One way a bill title can be said to have "descended to particulars" is if it recites a list of statutory provisions that will be created, repealed, reenacted, or amended.[3] Because Missouri's statutes are arranged into various chapters that focus on distinct areas of law, identifying the specific statutes to be affected by the bill's passage may indeed be a useful way of putting legislators or citizens on notice that the bill might warrant their attention[4]—but only if the title includes a comprehensive list of the statutes to be affected. Where a bill title identifies a number of specific statutes that the bill will repeal, modify, or add, it necessarily implies that the bill *will not* repeal, modify, or add statutes that are *not* listed in that title. Thus, courts should hold that where a bill title lists a set of specific statutes that the bill will repeal, modify, or add, the title has "descend[ed] to particulars" in such a way that any statutory changes not included in the title "fall outside the scope of the title [and] may be invalidated and severed from the remainder of the bill." *Drury,* 66 S.W.3d at739.

One additional matter bears mention in this regard. Where a bill title states that it is repealing specified provisions and enacting a certain number "in lieu thereof," the term "in lieu of" does not merely mean "and also," it means that the new provisions are intended to *take the place of* the repealed provisions. A statute being adopted "in lieu of" another must necessarily be in some sense replacing the one being repealed. In most contexts this would necessarily imply a similarity of subject or purpose because if there was no such intrinsic similarity the term "in lieu of" would be superfluous. The use of this term indicates to the reader that even if the new provisions are dramatically different from those being repealed, the legislature intends for the new provisions to address the same issues that were addressed in those sections being repealed rather than to introduce new issues unrelated to those in the statutes being repealed. Thus, if a bill's title states that it is enacting a certain number of sections "in lieu of" those the bill will

[3] This argument was raised in *St. Louis Health Care Network v. State*, 968 S.W.2d 145, 148 (Mo. banc 1998), but the court declined to address it because it was unnecessary to resolve the case.

[4] *See Asel v. City of Jefferson*, 229 S.W. 1046, 1048-49 (Mo. banc 1921) (finding that a title making reference to a specific prior act of the legislature "without other description of the subject-matter" was sufficient to put legislators on notice of the bill's subject).

repeal, the bill would violate the Clear Title requirement if one or more of the newly enacted sections addresses an issue that was not implicated by the sections being repealed. And to the extent that the Government might argue that it is sufficient that new statutory sections are identified in the text of the bill, Plaintiffs emphasize that the constitutional provision at issue in this case imposes certain requirements on the *title* of a bill; it would be absurd to argue that the Court (or legislators or interested citizens) should look *beyond* the title of the bill for information the constitution requires to be *in the title*.

C. The Court must invalidate SB 154, in part or in whole, because its title did not adequately inform legislators or the general public as to the bill's contents.

Whether the Court focuses on the "overbreadth" argument or the "underinclusiveness" argument, it must conclude that SB 154 violates the Clear Title requirement. The title of SB 754, as enacted and signed by the governor, was:

> To repeal sections 211.031, 211.071, 217.345, 217.690, 547.031, 556.021, 558.016, 558.019, 568.045, 571.015, 571.070, 575.010, 575.353, 578.007, 578.022, 579.065, 579.068, 590.192, 590.653, 600.042, and 610.140, RSMo, and to enact in lieu thereof twenty-nine new sections relating to public safety, with penalty provisions and a delayed effective date for a certain section.

SUMF ¶ 6.

This language is both overbroad and underinclusive.

1. The Title of SB 754 is Unconstitutionally Overbroad.

This Court must hold that the title of SB 754 is unconstitutionally overbroad if the general subject it identifies—"public safety"—is so broad and amorphous that members of the legislature and interested people would be required to painstakingly search through the language of the bill to determine if there is something there adverse to their interest. *St. Louis Cnty. Water Co.*, 579 S.W.2d at 635.

Helpfully, the Missouri Supreme Court has recently stated (albeit without directly holding) that "phrases such as 'public safety' are too broad and amorphous to describe the subject of a pending bill with the precision necessary to provide notice of its contents." *City of*

St. Louis v. State, 682 S.W.3d 387, 402 (Mo. banc 2024). That alone should be sufficient guidance for this Court to conclude that SB 754 violates the Clear Title requirement.

To illustrate the court's observation, consider the *incredible* breadth of topics included in recent bills whose title included "relating to public safety." Such bills have addressed such diverse matters as:

- Determining which circuit courts have jurisdiction to consider motions to vacate or set aside judgments on the basis that a convicted person might be innocent or might have been erroneously convicted, **Motion Ex. 1, p. 18**;
- Requiring the Missouri office of prosecution services to establish a conviction review unit and providing guidance for its operation, **Motion Ex. 1, pp. 19–21**;
- Prohibiting courts from issuing a warrant for failure to appear for any violation classified or charged as an infraction under Chapter 307, **Motion Ex. 1, p. 22**;
- Creating a "Stop Cyberstalking and Harassment Task Force" and providing guidance for its operation, **Motion Ex. 1, pp. 30–33**;
- Expanding a "Critical Incident Stress Management Program" to include "first responders" in addition to peace officers, **Motion Ex. 1, pp. 51–52**;
- Authorizing the creation of additional civilian entities to oversee law enforcement agencies, but limiting the authority of those civilian entities, **Motion Ex. 1, pp. 53–54**;
- Creating a "Public Defender – Federal and Other Fund" to be used for the purpose of funding local offices of the office of the state public defender, **Motion Ex. 1, p. 58**;
- Directing the department of corrections to develop policies and procedures through which offenders can apply for Medicaid and/or obtain certain identification documents, **Motion Ex. 2, p. 4**;
- Modifying the circumstances under which vehicle owners may obtain "Back the Blue" license plates, **Motion Ex. 2, pp. 4-5**;
- Creating a tuition reimbursement program applicable when certain entities have paid tuition at a licensed basic law enforcement training center, **Motion Ex. 2, pp. 24–28**;
- Allowing disclosure of files maintained by child advocate program if requested by law enforcement as part of an investigation, **Motion Ex. 3, p. 2**;
- Adjusting the age and circumstances under which a person can be designated as a "missing child" or "missing juvenile," **Motion Ex. 3, p. 2**;
- Clarifying how funds related to the service of certain court documents must be collected, accounted for, and deposited, **Motion Ex. 3, p. 13**;

- Eliminating residency requirement for personnel of St. Louis City police force, **Motion Ex. 3, pp. 15–16**;
- Requiring persons associated with marijuana facilities to submit to fingerprinting, **Motion Ex. 3, pp. 22–23**;
- Modifying provisions related to the placement of children in foster care, **Motion Ex. 3, pp. 23–29**;
- Changing the qualifications for persons the state fire marshal may appoint as investigators, **Motion Ex. 3, p. 34**;
- Creating a process through which prosecutors might divert criminal cases involving intoxication-related offenses, **Motion Ex. 3, pp. 45–47**;
- Making it a criminal offense to tamper with an automatic or interactive teller machine, **Motion Ex. 3, pp. 49–55**;
- Setting a minimum fee to be charged for a records request for a Missouri Uniform Crash Report or a Marine Accident Investigation Report, **Motion Ex. 4, p. 3**;
- Reversing the prohibition against the general assembly and county governing bodies from appropriating funds for deposit in the sheriff's retirement fund, authorizing the board of directors to accept contributions from public or private sources, and requiring sheriffs to contribute five percent of their pay to the retirement system, **Motion Ex. 4, pp. 23–28**;
- Eliminating the maximum age for persons appointed chief of police in St. Louis City and changing the maximum salary for the chief of police and other officers in St. Louis City's police department, **Motion Ex. 4, pp. 35–38**;
- Expanding the number of communities authorized to impose certain taxes and specifying the amount of such a community's budget that must be allocated for public safety purposes, **Motion Ex. 4, pp. 39–45**;
- Removing a prior restriction that prevented one specific emergency services board from having a sales tax for emergency services or for providing central dispatching for emergency services, **Motion Ex. 4, p. 76**;
- Establishing definitions and regulations for employer-run "peer support counseling programs," **Motion Ex. 4, pp. 84–87**;
- Recognizing posttraumatic stress disorder as a compensable occupational disease, **Motion Ex. 4, pp. 107–09**;
- Changing the "voluntary firefighter cancer benefits pool" to the "voluntary critical illness benefits pool" and expanding the program to include both paid and volunteer first responders, **Motion Ex. 4, pp. 109–10, 113–19**;
- Authorizing entities that operate licensed or certified marijuana facilities to ask state or local authorities to share certain information with banking institutions, **Motion Ex. 4, pp. 127–28**;

- Prohibiting scrap yards from purchasing "twisted pair copper telecommunications wiring of pair or greater existing in 19, 22, 24, or 26 gauge burnt wire," **Motion Ex. 4, p. 129**;
- Creating an offense of "interference with the transportation of livestock," **Motion Ex. 4, pp. 159–60**;
- Modifying the provisions providing for salary increases for part-time prosecutors and other county officials, **Motion Ex. 5, pp. 3–4, 9–11**;
- Prescribing the handling of juveniles under eighteen years of age who have been certified to stand trial as an adult, **Motion Ex. 5, pp. 27–31**;
- Clarifying the scope of a child's right to be represented by counsel, **Motion Ex. 5, pp. 39–41**;
- Establishing an "Inmate Canteen Fund" within the state treasury, **Motion Ex. 5, p. 47**;
- Requiring feminine hygiene products to be provided at no cost to females confined in state correctional facilities, **Motion Ex. 5, pp. 48, 71–72**;
- Compelling offenders to apply any stimulus funds received from the federal government toward restitution payments, **Motion Ex. 5, p. 71**; and
- Addressing the admissibility of certain witness statements as evidence in criminal trials, **Motion Ex. 5, p. 107–08**.

The point of listing all these various provisions is not to suggest that any one of them, taken alone, might not fall within the scope of the term "public safety." The point is that the term "public safety," particularly as it has been used by those legislators who advanced the above bills, is so broad and amorphous that no interested legislator or member of the public could discern whether a "public safety" bill contained something adverse to their interests without painstakingly searching through the language of each bill—which is just what the Clear Title requirement was written to prevent. Certainly the title of the above bills would not be sufficiently clear to relieve them of that burden.

But even beyond this concrete list of recent examples, "public safety" has long been understood as an essential element of the state's "police power" which it relies on as the authority for the vast majority of the legislation it passes. *See, e.g., State ex rel. Rouveyrol v. Donnelly*, 285 S.W.2d 669, 693 (Mo. banc 1956) (police power is "'power inherent in a government to enact laws, within constitutional limits, to promote the order, safety, health,

morals, and general welfare of society'" (citation omitted)). The term encompasses not only every criminal law in the state, but also those involving state and local law enforcement agencies, the court system and its proceedings, the regulation of goods and services, the regulation of private property, the structure and powers of local governments, and also taxation related to any of the preceding matters.

Consequently, where a bill's title states that it is "relating to public safety," the range of potential topics is not meaningfully narrowed. The only way that a legislator or interested citizen would be able to discern whether such a bill contains something related to or adverse to their interests would be "to painstakingly search through the language of the bill"—which is precisely the eventuality the constitutional requirement is meant to avoid. This is why the Missouri Supreme Court has already suggested that "phrases such as 'public safety' are too broad and amorphous to describe the subject of a pending bill with the precision necessary to provide notice of its contents." *City of St. Louis*, 682 S.W.3d at 402. This Court should come to the same conclusion and, thus, should hold that SB 754 violates the Missouri Constitution's Clear Title requirement.

2. The Title of SB 754 is Unconstitutionally Underinclusive.

This Court must hold that the title of SB 754 is unconstitutionally "underinclusive" if its terms indicate a particular limitation or restriction of the scope of the bill, but then includes one or more provisions that go beyond that limitation or restriction. *Nat'l Solid Waste Mgmt. Ass'n*, 964 S.W.2d at 820–21. To the extent that a bill's title has "descend[ed] into particulars," the contents of the bill must be limited to those particulars. *See Drury*, 66 S.W.3d at 739 (citation omitted).

The title for SB 754 identifies twenty-one statutory sections to be repealed and announces the enactment of twenty-nine sections "in lieu thereof." The title does not, however, inform either legislators or the public that the bill will create several entirely new sections or that these new sections address matters that were not implicated by the sections being repealed. Having "descended into particulars" by identifying specific statutory provisions to be removed or

modified, the title for SB 754 could only comply with the Clear Title requirement if it informed legislators or citizens of the new statutory provisions that the bill would also create. Because the title for SB 754 did not clarify that the bill would create sections 211.600, 307.018, 547.500, 565.258, 571.031, 575.151, 579.021, or 579.022, RSMo., the bill did not limit its contents to the particulars identified in the bill's title and, consequently, it violates the Clear Title Requirement.

III. The Plaintiffs are entitled to summary judgment regarding the proper interpretation of § 516.500.

On May 30, 2025—after Plaintiffs filed their first motion for summary judgment—the Government asserted the entirely novel argument that § 516.500, RSMo., which prohibits citizens from initiating a procedural challenge to a bill any later than "the adjournment of the next full regular legislative session following the effective date of the bill as law," also requires the *termination* of such a challenge by that date. In other words, the Government contended that the statute allows a lawsuit to be filed on that date, but also *prohibits* the courts from considering the plaintiff's claims *after* that date. This is plainly wrong as a matter of law for reasons given below.

The extremity of the Government's position is especially glaring in light of the Government's previous contention that Plaintiffs could not have standing to file such a challenge merely because a bill authorizes or requires the direct expenditure of funds generated through taxation; the Government demanded proof of a *specific* expenditure *that has already taken place*.[5] Taking these two positions together, the result would be that the legislature could pass a bill that authorizes or requires certain specific expenditures of taxpayer money, but not until after the statute of limitations has passed—in which case a taxpayer could not establish standing in time to get his or her procedural challenge before the courts.

[5] The Government has not *disavowed* either of these positions, although it has said it no longer intends to advance them as affirmative defenses in this case. Unless this Court grants the declaratory judgment Plaintiffs request in Count III potential plaintiffs will have to make litigation decisions without knowing how this statute might be applied if the Government raises these same defenses in future procedural challenges.

Fortunately, as explained below, the Government's radical position is not supported under existing Missouri law. The Court should therefore reject the Government's arguments, follow the guidance the Missouri Supreme Court has already provided, and grant summary judgment in favor of Plaintiffs.

A. The phrase "commenced, had or maintained" is a term of art unique to Missouri law that indicates the legislature's intent to create a deadline for initiating a particular type of case.

The primary goal of statutory interpretation is to ascertain the intent of the legislature and give effect to that intent. *See Weeks v. St. Louis Cnty.*, 696 S.W.3d 333, 339 (Mo. banc 2024). In interpreting statutes, "[w]ords and phrases shall be taken in their plain or ordinary and usual sense, but technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import." § 1.090, RSMo.

The phrase, "commenced, had or maintained," appears to be completely unique to Missouri law; the Plaintiffs have been able to identify neither any statute in any other state nor any appellate case in any other state's courts that uses this phrase. The phrase appears in six separate Missouri statutes: §§ 92.720,[6] 140.160, 141.080, 516.010, 516.030, and 516.500:

- Section 92.720 prohibits an action "for recovery of taxes against real estate" from being "**commenced, had or maintained**, unless action therefor shall be commenced within five years after delinquency;" in this context, the phrase only addresses when a relevant type of case must be *initiated*, not when courts must cease consideration of a case that was timely commenced.
- Section 140.160 states in relevant part that suits or actions to collect delinquent drainage and/or levee assessments on real estate "shall be commenced within three years after delinquency, otherwise no suit or action shall be **commenced, had or maintained**"; in this context, the phrase only addresses when a relevant type of case must be *initiated*, not when courts must cease consideration of a case that was timely commenced.
- Section 141.080 states in relevant part that "No action for recovery of taxes against real estate shall be **commenced, had or maintained**, unless action therefor shall be commenced within three years after delinquency"; in this

[6] Ironically, the Missouri Supreme Court held in *Byrd v. State*, 679 S.W.3d 492 (Mo. banc 2023), that a bill purporting to amend § 92.720 violated the Single Subject requirement of Article III § 23 of the Missouri Constitution.

context, again, the phrase only addresses when a relevant type of case must be *initiated*, not when courts must cease consideration of a timely-filed case.

- Section 516.010 prohibits actions for the recovery of lands, tenements or hereditaments, or of the recovery of possession thereof from being "**commenced, had or maintained**… unless it appear that the plaintiff… was seized or possessed of the premises in question, within ten years before the commencement of such action"; once more, the phrase in this context addresses only when a relevant type of case must be filed, not when courts must cease consideration.

- Section 516.030 allows for the tolling of certain statutes of limitations under specified conditions, but clarifies that "no such action shall be **commenced, had or maintained** or entry made by any person laboring under the disabilities specified in this section, after twenty-one years after the cause of such action or right of entry shall have accrued"; here, too, the phrase addresses only when a case must begin, not when courts must end it.

Each of the five statutes above functions as a true statute of limitations, establishing a deadline by which a certain type of case must have been *filed*—not setting a date by which courts must *cease considering* timely-filed cases.

Thus, Plaintiffs' position is that in every other instance in which this particular phrase—"commenced, had or maintained"—is employed in Missouri law, the limitations imposed by the phrase are contingent on an action being *initiated* before the passage of a statutory deadline. In light of the consistent usage of this legal term, it amounts to a "technical" term or a "term of art" that does not lend itself to traditional statutory analysis. § 1.090; *see also Am. Fed'n of Teachers v. Ledbetter*, 387 S.W.3d 360, 364 (Mo. banc 2012) (words that have long had a technical meaning in statutes or judicial proceedings are to be understood in their technical sense). Understanding the term "commenced, had or maintained" as a technical term that only applies to the timely *initiation* of a specified type of legal action results in the conclusion that its use in § 516.500 was not intended to forbid judicial consideration of timely-filed cases after the statutory deadline, but rather the legislature intended the phrase merely to establish a traditional statute of limitations after which an action asserting the invalidity of a bill due to the procedural limitations of the Missouri Constitution could not be *initiated*.

And that only makes sense, for parties cannot ultimately control how long a court will take to resolve a dispute. To impose a limitations period contingent on when a court *ceases consideration* of a case would—in all but the narrow circumstances specified below—have the

absurd result of causing an otherwise valid cause of action to vanish for reasons beyond the control of any party, and entirely within the unlimited power of the tribunal itself. Consider, for example, *Jones v. Harris Associates L.P.*, 611 F. App'x 359, 362 (7th Cir. 2015), in which a case, after remand to the Seventh Circuit, was "placed in the wrong stack and forgotten," only to be decided years later (for which the court apologized). By the Government's logic, such pure inadvertence would extinguish a properly litigated case. That, however, would likely violate due process of law, and, as described in Section IV.B below, the Open Courts Clause.

Plaintiffs' understanding is also consistent with the way in which Missouri courts have handled this sort of case ever since § 516.500 was enacted, with cases "alleging a procedural defect in the enactment of a bill into law" routinely taking more than a year to reach their final resolution. *See e.g., Calzone, supra* (challenge to bills that went into effect in 2016, opinion issued October 1, 2019); *Mo. Roundtable for Life, Inc. v. State*, 396 S.W.3d 348 (Mo. banc 2013) (challenge to bill that went into effect in 2011, opinion issued March 19, 2013); *Legends Bank v. State*, 361 S.W.3d 383 (Mo. banc 2012) (challenge to bill that went into effect in 2010, opinion issued February 14, 2012); *Jackson Cnty. Sports Complex Auth. v. State*, 226 S.W.3d 156 (Mo. banc 2007) (challenge to bills that went into effect in 2005, opinion issued June 26, 2007); *Home Builders Ass'n, supra* (challenge to bill that went into effect in 2000, opinion issued May 28, 2002).

B. Applying § 516.500 to prevent consideration of a procedural challenge in the manner the Government has suggested would lead to absurd results; in the three decades since § 516.500 became law, it has never been applied as anything other than a statute of limitations.

Courts must avoid interpreting statutes in ways that yield unjust, absurd, or unreasonable results. *Sansone v. Governor of Mo.*, 648 S.W.3d 13, 23 (Mo. App. W.D. 2022). The Government's argument that the statutory deadline established by § 516.500 sets not only the date by which a party must *initiate* an action contending that a bill violates the procedural restrictions established under the Missouri Constitution, but also that such an action must be *completed by that date* would produce just this sort of unjust, absurd, or unreasonable result.

Section 516.500 became law in 1994; it has not been amended since then. The manifest purpose of this provision, which was adopted in the wake of Judge Holstein's concurrence in *Hammerschmidt v. Boone County*, 877 S.W.2d 98, 105 (Mo. banc 1994), is to ensure that procedural challenges to bills must be initiated in a timely manner. Nothing in the text of the statute suggests a need for urgency in the resolution of these procedural challenges. There is no provision requiring these cases to be expedited or moved to the top of the court's docket. The statute does not provide for an accelerated appellate schedule. And nothing in the statute specifies that courts must extinguish or otherwise terminate a timely-filed case until the natural course of litigation has run.

Since the adoption of this statute Missouri courts have decided scores of cases involving challenges based on the procedural limitations the Missouri Constitution imposes on the passage of bills—more than forty of those cases have resulted in appellate opinions. The Government's argument regarding § 516.500 is contradicted by the fact that many of those appellate opinions—cited above—were handed down "later than the adjournment of the next full regular legislative session following the effective date of" the bill being challenged in that action. *See, e.g., Calzone, supra; Mo. Roundtable for Life, supra*, etc.

So far as the Plaintiffs can discern, no Missouri court has *ever* held that § 516.600 requires courts to cease considering legal actions involving procedural challenges to bills as long as they were filed prior to the deadline established in that statute. The Government's argument to the contrary appears to have been literally unprecedented.

When the legislature intends to establish a deadline by which courts must *conclude* consideration of a certain type of case, it makes that intention clear. For example, there are certain election-related challenges which do this. Section 116.190 governs the process through which citizens may challenge the official ballot title or fiscal note for certain ballot issues. Section 116.190.1 specifies when and where the petition in such a case must be filed. Section 116.190.2 specifies who must be named as defendants. Section 116.190.3 specifies the contents of the petition. Section 116.190.4(1) requires courts to place such an action at the top of the civil

docket. Section 116.190.4(2) establishes the procedure courts must follow as they make decisions concerning the petition, with subsection (g) specifying that courts must expedite consideration of the case. And § 116.190.5 clearly prescribes the total timeframe within which courts should resolve this sort of case, stating:

> Any action brought under this section that is not fully and finally adjudicated within one hundred eighty days of filing, and more than fifty-six days prior to [the] election in which the measure is to appear, including all appeals, shall be extinguished, unless a court extends such period upon a finding of good cause for such extension. Such good cause shall consist only of court-related scheduling issues and shall not include requests for continuance by the parties.

Each element of § 116.190 drives home the legislature's intent to establish a clear, unusually expedited timeline within which courts must consider the type of case that statute addresses, and the statute is unambiguous that if an action brought under that section—"including all appeals"—is not "fully and finally adjudicated" within the specified timeframe, it "shall be extinguished." This is the sort of clarity that the legislature employs when it intends to artificially restrict the courts' jurisdiction to consider a particular kind of case.

As noted, § 516.500 does not include any of these elements, nor is there any plausible reason why the legislature would prohibit courts from considering procedural challenges to legislative bills according to the standard rules of civil procedure, so long as the plaintiffs filed those challenges by the date established in this section. Indeed, this is what Missouri courts have done for the past three decades. Given that the legislature has provided a clear example of the kinds of guidance it can employ when it actually *does* intend to restrict the timeframe within which the courts must consider a timely-filed legal action, and that no such guidance appears in the statute involved here—on the contrary, the statute at issue has operated for a long time without any court ever applying it in the way the Government is suggesting—this Court should decline the Government's invitation to introduce a completely new framework, particularly when it would lead to absurd results.

IV. The Missouri Constitution does not permit the General Assembly to impede the Judiciary's ability to enforce constitutional limits the people have placed on the General Assembly's power.

A central concept embedded in the Missouri Constitution is that the people must be able to meaningfully limit and control the powers exercised by their elected officials. Article I § 1 of the Missouri Constitution emphatically states "[t]hat all political power is vested in and derived from the people; that all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole." Article I § 3 of the Missouri Constitution affirms "[t]hat the people of this state have the inherent, sole, and exclusive right to regulate the internal government… thereof." The remainder of Article I articulates dozens of specific limits on the power that any unit of Missouri government may exercise.

Article III gives the General Assembly a significant degree of power, but the people of this state have long recognized that without appropriate limitations, the legislature is prone to abuse that power. In order to prevent the General Assembly from engaging in specific types of political gamesmanship, the people adopted Article III, sections 21 and 23. But these constitutional limitations on the legislative process can only achieve their intended purpose if citizens have the ability to bring lawsuits before the state's courts in order to enforce those constitutional limitations. *See Lebeau v. Comm'rs of Franklin Ctny.*, 422 S.W.3d 284, 289 (Mo. banc 2014). To the extent that the General Assembly might attempt to restrict citizens' ability to bring such lawsuits, or the courts' authority to hear and resolve such lawsuits, this raises the concern that the legislature is improperly trying to avoid the very accountability and transparency that the people have deemed necessary for their legislative body. Further, any effort by the General Assembly to restrict citizens' ability to bring such lawsuits, or to constrain the courts' authority to hear and resolve such lawsuits raises the concern that the legislature is violating the Constitution's separation of powers or improperly intruding into authority that the people have properly reserved to the judiciary. Mo. Const. Art. II § 1; Mo. Const. Art. V § 5.

A. The Constitution, not the General Assembly, determines the authority of Missouri courts.

"Subject matter jurisdiction" involves "the courts' authority to render a judgment in a particular category of case." *J.C.W. ex rel. Webb v. Wyciskalla*, 275 S.W.3d 249, 253 (Mo. banc 2009). Although the U.S. Constitution gives Congress the authority to increase or decrease the subject matter jurisdiction of federal courts, the subject matter jurisdiction of this state's courts is governed directly by the Missouri Constitution. *Id*.

The Missouri Supreme Court has previously held that the General Assembly has the power to enact statutes of limitations and to fix the date on which that statute commences to run. *Laughlin v. Forgrave*, 432 S.W.2d 308, 314 (Mo. banc 1968). As this case was initially filed on October 10, 2024—more than seven months before "the adjournment of the next full regular legislative session following the effective date of [SB 754] as law"—it is clear that this case was filed within the statute of limitations that § 516.500 establishes.

So far as the Plaintiffs can discern, Missouri courts have not previously held that the General Assembly has the power to set a date by which parties are not permitted to *continue* the litigation of a timely-filed case that seeks to enforce constitutional restrictions on the General Assembly's authority. If the Court determines that § 516.500 forbids the continuation of this case after "the adjournment of the next full regular legislative session following the effective date of [SB 754] as law," it will need to decide as a matter of first impression whether the Missouri Constitution allows the General Assembly to impose such a prohibition.

B. Any authority the General Assembly has to restrict the authority of Missouri courts is limited by the Open Courts requirement and the Separation of Powers.

Whatever types of restrictions the General Assembly may be permitted to place on causes of action or judicial remedies, the legislature's authority can only be exercised in a manner consistent with Missouri's Open Courts requirement, found in Article I § 14 of the Missouri Constitution, and its Separation of Powers requirement, found in Article II § 1 of the Missouri Constitution. *J.C.W.*, 275 S.W.3d at 255. If the General Assembly has imposed a barrier that would prevent a citizen from pursuing a recognized cause of action or that would prevent them

from seeking a remedy for a recognized injury, courts may invalidate that barrier if it is arbitrary or unreasonable. *Kilmer v. Mun*, 17 S.W.3d 545, 550 (Mo. banc 2000).

The Government's filings on May 30, 2025, asserted as an affirmative defense that § 516.500 prohibits this Court from *continuing to consider* the question of whether SB 754 violates the Clear Title requirement, even though this case was filed well within the limitations period. Its argument focuses on the statute's statement that "[n]o action alleging a procedural defect in the enactment of a bill into law shall be commenced, had or maintained by any party later than the adjournment of the next full regular legislative session following the effective date of the bill as law." § 516.500, RSMo..

The Government contended that even if a plaintiff initiates an action alleging a procedural defect in the enactment of a bill prior to this statutory deadline, the inclusion of the word "maintained" prohibits courts from continuing to consider such timely-filed cases after "the adjournment of the next full regular legislative session following the effective date of the bill as law."

If this is, in fact, what the General Assembly meant when enacting § 516.500, it would severely limit citizens' ability to enforce the Missouri Constitution's procedural restrictions on the legislative process. A plaintiff cannot challenge a bill until it has received final approval, either from the Governor or from a vote overriding the Governor's veto. Because bills may also be passed in a special session, the final approval of a bill can come quite late in a calendar year, such as was the situation in *Missouri Roundtable for Life, supra*, when the Governor did not sign the challenged bill until October 21, 2011. Even if one were to assume that a plaintiff faced with circumstances such as those in *Missouri Roundtable for Life* could file a lawsuit raising a procedural challenge that same day, the Government's proposed interpretation of § 516.500 would mean that all of the litigation related to the challenge—including discovery, dispositive motions, a trial, and any appeal—would need to be completed within about seven months, no later than May 30 of the following year.

The enforcement of constitutional restrictions that the people of Missouri have seen fit to impose on their state legislature is a weighty matter, one that warrants careful deliberation, rather than an artificially constricted timeframe. Particularly where the limitation the Government is arguing for involves the General Assembly making it significantly more difficult for citizens to enforce the Constitution's restrictions on the General Assembly, courts should not defer to any claim the Government might make regarding the advisability or necessity of such restrictions; to defer to the Government's position would effectively allow the General Assembly to become the judge in its own case.[7] If the courts allow the legislature unnecessarily to constrict taxpayers' ability to enforce the Missouri Constitution's restrictions on the legislative process, it raises the possibility that the legislature could intentionally use that same authority to almost entirely avoid these constitutional restrictions on the legislature's power.

This Court cannot and must not endorse the Government's effort to evade constitutional limitations by limiting the Judiciary's authority to carefully consider and rule upon citizens' timely challenges to the General Assembly's authority.

CONCLUSION

For the foregoing reasons, Plaintiffs ask the Court to enter summary judgment in their favor and grant them the relief they request.

Respectfully submitted this 11th day of March 2026,

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[7] At least one Missouri Supreme Court judge has already recognized the potential dangers of allowing procedurally defective bills to evade judicial review. *See Schafer v. Koster*, 342 S.W.3d 299, 304-05 (Mo. banc 2011) (Fischer, J., dissenting).

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above and foregoing was e-Filed with the Court's E-Filing System this 11th day of March, 2026.

/s/ *David E. Roland*