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that had to be met for a measure to be referred to Missouri citizens. Mo. Const. art. 3, §§ 49, 52(a), 52(b); Mo. Ann. Stat. §§ 128.345, 128.346, 128.348, 128.471 et seq., 116.130, 116.150.

6. Election Law ☞643

Statutory chapter on initiative and referendum does not override the Missouri Constitution. Mo. Ann. Stat. § 116.010.

7. Appeal and Error ☞3172

Constitutional Law ☞580

Interpretation of constitutional provision is issue of law subject to Supreme Court's de novo review and not subject to admission or concession by any party.

8. Statutes ☞1772

To the extent statutes permitted Secretary of State to delay, until issuance of a certificate of sufficiency of referendum petition, suspension of newly enacted House bill that established new congressional districts even though there had been no certification of a new census to the Governor, they were not in conflict with Missouri Constitution's referendum-related provisions; nothing in the constitutional provisions provided that the filing of a referendum petition automatically suspended the act of the General Assembly at issue. Mo. Const. art. 3, §§ 49, 52(a), 52(b); Mo. Ann. Stat. §§ 128.345, 128.346, 128.348, 128.471 et seq., 116.130, 116.150.

Hamilton of Perkins Coie LLP in Seattle, Washington, (206) 359-8000.

The state was represented by Louis J. Capozzi III, J. Patrick Sullivan, and J. Michael Patton of the attorney general's office in Jefferson City, (573) 751-3321.

The organization Put Missouri First was represented by Marc H. Ellinger and Stephanie S. Bell of Ellinger Bell in Jefferson City, (573) 750-4100.

Two non-parties filed briefs as friends of the Court. The Boone County clerk was represented by Nina McDonnell of McDonnell Appeals LLC in Clayton, (314) 896-4009, and Michael A. Wolff of Wolff Law LLC in St. Louis, (314) 691-4377.

People Not Politicians was represented by Charles W. Hatfield, Alixandra S. Cossette, and Alexander C. Barrett of Stinson LLP in Jefferson City, (573) 636-6263.

Ginger K. Gooch, Judge

Jake Maggard and Gregg Lombardi ("Appellants") appeal the circuit court's judgment concluding 2026-R004, a referendum petition filed on December 9, 2025 (the "referendum petition"), did not automatically suspend House Bill No. 1 ("HB 1") under article III, sections 49, 52(a), or 52(b) of the Missouri Constitution. Because the circuit court correctly concluded the filing of the referendum petition did not automatically suspend HB 1 as of December 9, this Court affirms the circuit court's judgment.

APPEAL FROM THE CIRCUIT COURT OF COLE COUNTY, The Honorable Brian K. Stumpe, Judge

The voters were represented by Tori Schafer and Jonathan D. Schmid of the ACLU of Missouri Foundation in St. Louis, (314) 652-3114; and Matthew P. Gordon, Jonathan P. Hawley, and Kevin J.

Factual Background and Procedural History

In September 2025, the Missouri General Assembly enacted HB 1. HB 1 was codified as sections 128.345, 128.346, 128.348, and 128.471 through 128.479, with an effective date of December 11, 2025.¹ Once in effect, HB 1 would repeal congressional districts established in 2022 and es-

1. Unless otherwise noted, all statutory refer-

ences are to RSMo 2016 and all rule refer-

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establish new congressional districts even though there had been no certification of a new census to the governor.²

Appellants, two qualified Missouri voters who signed the referendum petition and who each would reside in a new congressional district under HB 1, filed a single-count petition for declaratory judgment and injunctive relief alleging HB 1 was automatically suspended under article III, sections 49, 52(a), and 52(b) of the Missouri Constitution upon the December 9 referendum petition filing with the secretary of state (the “secretary”). Appellants further alleged, to the extent sections 116.130 or 116.150 permit the secretary to delay suspension of a referred law until issuance of a certificate of sufficiency, those statutes conflict with article III, sections 49, 52(a), and 52(b), at least as applied to the facts here, and are unconstitutional. Appellants sought a declaration HB 1 is suspended until voters approve or reject it through the referendum process. Appellants also sought an injunction preventing use of HB 1’s congressional map until voters approve the map through the referendum process.³

The circuit court held a bench trial on joint stipulated facts and exhibits. The parties stipulated the General Assembly truly agreed to and finally passed HB 1 on September 12, 2025;⁴ the referendum peti-

tion organizers submitted a referendum petition form to the secretary on September 29, 2025; the secretary certified the official ballot title for the referendum petition and approved the petition for circulation on November 13, 2025; the referendum petition organizers submitted 691 boxes of referendum petitions to the secretary on December 9, 2025, and received a “box receipt” and a “referendum receipt form” from the secretary that same date; HB 1 was codified at various statutory sections, all with an effective date of December 11, 2025; and the secretary has not yet issued a “certificate” addressing the sufficiency of the referendum petition under section 116.150.

The circuit court entered judgment against Appellants, dismissing their petition for lack of standing and, alternatively, dismissing their petition for lack of ripeness, for presenting a nonjusticiable political question, and for seeking a declaratory judgment when an adequate statutory remedy exists. The circuit court alternatively reached the merits and declared HB 1 was not automatically suspended as of December 9 when the referendum petition was filed. Appellants appealed.⁵

Standard of Review

[1–4] This Court will affirm a declaratory judgment “unless there is no substan-

ences are to Missouri Court Rules (2026).

2. In *Luther v. Hoskins*, 730 S.W.3d 567, 569 (Mo. banc 2026), this Court held HB 1 does not violate article III, section 45 of the Missouri Constitution “because article III, section 45 obligates the General Assembly to redistrict when the United States census is certified to the governor but does not otherwise expressly limit the General Assembly’s plenary power to legislate congressional districts.”

3. The circuit court permitted Put Missouri First, a political action committee, to intervene in defense of HB 1. See Rule 52.12.

4. The governor signed HB 1. *Luther*, 730 S.W.3d at 570.

5. Because of the general interest and importance of the legal issue involved in this case, this Court, on its own motion, grants discretionary transfer of this case under Rule 83.01 and article V, section 10 of the Missouri Constitution and does not address whether this Court would have had exclusive appellate jurisdiction absent transfer. See *Cass Cnty. v. Dir. of Revenue*, 550 S.W.3d 70, 72 n.2 (Mo. banc 2018).

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tial evidence to support it, unless it is against the weight of the evidence, unless it erroneously declares the law, or unless it erroneously applies the law.” *Luther*, 730 S.W.3d at 570 (internal quotation omitted). “Because the facts are stipulated, this Court’s review is limited to determining whether the circuit court properly declared and applied the law.” *Id.* “Questions of law involving constitutional interpretation are reviewed *de novo*.” *Id.* Likewise, “[c]onstitutional challenges to a statute are reviewed *de novo*.” *Nicholson v. State*, No. SC101308, 731 S.W.3d 871, 878 (Mo. banc Jan. 23, 2026) (internal quotation omitted).

Analysis

[5] Appellants claim HB 1 was automatically suspended under article III, sections 49, 52(a), and 52(b) of the Missouri Constitution when the referendum petition was filed on December 9. Appellants assert sections 116.130 and 116.150 are unconstitutional to the extent they permit the secretary to delay the effective date of the referendum suspension of a referred law until issuance of a certificate of sufficiency.⁶ Appellants “do not challenge the [s]ecretary of [s]tate’s refusal to certify a referendum” and “do not dispute that the certification process is statutorily delegated to the [s]ecretary of [s]tate, and nothing in [Appellants’] requested relief seeks to interfere with that process.” [Appellants’] Combined Suggestions in Opposition to Motions to Dismiss at 1 (internal

quotation omitted). Instead, they assert this case presents the single, narrow, purely legal issue of “the status of HB[1] in the meantime, while the signatures are being verified[.]” Brief of Appellants at 11.

The Missouri Constitution sets out the right of referendum. Article III, section 49 provides: “The people . . . reserve power to approve or reject by referendum any act of the general assembly, except as hereinafter provided.”⁷ Article III, section 52(a) further provides:

A referendum may be ordered . . . either by petitions signed by five percent of the legal voters in each of two-thirds of the congressional districts in the state, or by the general assembly, as other bills are enacted. Referendum petitions shall be filed with the secretary of state not more than ninety days after the final adjournment of the session of the general assembly which passed the bill on which the referendum is demanded.

The 90-day referendum petition filing deadline in article III, section 52(a) is not arbitrary because article III, section 29 provides “no law passed by the general assembly, except an appropriation act, shall take effect until 90 days after the adjournment of the session . . . at which it was enacted.”⁸

Finally, article III, section 52(b) provides:

III, sec. 52(a) (excepting from the right of referendum “laws necessary for the immediate preservation of the public peace, health or safety, and laws making appropriations for the current expenses of the state government, for the maintenance of state institutions and for the support of public schools”).

6. Because this Court’s analysis under article III, sections 49, 52(a), and 52(b) is dispositive of all issues raised in this appeal, this Court does not address the remaining claims (and any defenses thereto). *Nicholson*, 731 S.W.3d at 879 n.5.

7. No party contends HB 1 is excepted from the right of referendum, so this opinion presupposes without deciding HB 1 is subject to the right of referendum. See Mo. Const. art.

8. Article III, section 29 also addresses the effective date of laws containing emergency clauses, but HB 1 has no emergency clause.

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The veto power of the governor shall not extend to measures referred to the people. All elections on measures referred to the people shall be had at the general state elections, except when the general assembly shall order a special election. Any measure referred to the people shall take effect when approved by a majority of the votes cast thereon, and not otherwise. This section shall not be construed to deprive any member of the general assembly of the right to introduce any measure.

This Court need look no further than the plain language of article III, sections 49, 52(a), and 52(b) to resolve the question Appellants present. *See Luther*, 730 S.W.3d at 570-71 (“[T]his Court does not utilize canons of construction when the language of a constitutional provision is plain and unambiguous.” (internal quotation omitted)). Nothing in article III, sections 49, 52(a), or 52(b) provides the filing of a referendum petition alone automatically suspends the act of the General Assembly at issue in the petition.⁹ Had the drafters intended a referendum petition filing to automatically suspend any act of the General Assembly at issue in the referendum petition, they would have so stated.

9. Although not at issue in this case, article III, section 53 provides:

The total vote for governor at the general election last preceding the filing of any . . . referendum petition shall be used to determine the number of legal voters necessary to sign the petition. In submitting the same to the people the secretary of state and all other officers shall be governed by general laws.

10. Appellants assert HB 1 was automatically suspended on December 9 because that is the date on which the referendum petition organizers submitted 691 boxes of referendum petitions to the secretary. Appellants offered no evidence the secretary could have determined, or did determine, compliance with the signature requirement in article III, section 52(a) on December 9. Under Appellants’ argument,

Article III, sections 49, 52(a), and 52(b) do not use the words “suspend” or “suspension” or any other like word or phrase. Instead, section 52(a) provides to the contrary, stating “[a] referendum may be ordered . . . by petitions signed by five percent of the legal voters in each of two-thirds of the congressional districts in the state[.]” Accepting Appellants’ argument that the December 9 referendum petition filing automatically suspended HB 1 would require this Court to ignore the explicit signature requirement in section 52(a).¹⁰

Appellants do not dispute section 52(a) contains a signature requirement and, as set out above, do not dispute the statute tasks the secretary with the certification process. *See* secs. 116.120-150; *see also* Mo. Const. art. IV, sec. 14 (providing the secretary “shall be custodian of such records, and documents and perform such duties in relation thereto, and in relation to elections and corporations, as provided by law, but no duty shall be imposed on him by law which is not related to his duties as prescribed in this constitution”). The General Assembly enacted the statutory initiative and referendum certification process in chapter 116 in 1980, effective January 1,

the suspension is automatic, regardless of whether the boxes contained petitions consisting only of invalid signatures, signatures of unregistered voters, or even blank pieces of paper. Appellants’ argument would permit legislation truly agreed to and finally passed by a majority of Missouri citizens’ elected representatives to be automatically suspended based on nothing more than the delivery of boxes purporting to contain signed referendum petitions complying with article III, section 52(a). This is not a reasonable reading of the plain language of article III, section 52(a). *See State ex rel. Dep’t of Health & Senior Servs. v. Slusher*, 638 S.W.3d 496, 500 (Mo. banc 2022) (“Courts should avoid constructions of the Missouri Constitution that are unreasonable or would lead to absurd results.” (internal quotation omitted)).

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1981, after then secretary of state, James Kirkpatrick, proposed a statutory certification process. See *Off. Manual of the State of Mo.* 14 (James C. Kirkpatrick & Kenneth M. Johnson eds., 1982).

Chapter 116 sets out a detailed process for review of referendum petitions. Section 116.120.1 provides the secretary “shall examine the petition to determine whether it complies with the Constitution of Missouri and with this chapter [116].” The secretary may rely on the circulator’s affidavit found on each page of the petition as required by sections 116.080 and 116.130.1, or the secretary may verify the petition signatures by use of random sampling. Sec. 116.120.1. Based on this sampling, the secretary can approve or reject the petition signatures or proceed to a verification of all the signatures. Sec. 116.120.2-4. With or without a sampling, the secretary has discretion to order the local election authorities to verify all the signatures. Sec. 116.130. The secretary has authority not to count signatures “which are, in his opinion, forged or fraudulent signatures.” Sec. 116.140.

Section 116.150.3 requires the secretary to issue a certificate of sufficiency or insufficiency as to the referendum petition “not later than 5:00 p.m. on the thirteenth

Tuesday prior to the general election or two weeks after the date the election authority certifies the results of a petition verification pursuant to subsection 2 of section 116.130, whichever is later.” After the secretary certifies a petition as sufficient or insufficient, any citizen may sue in the Cole County circuit court within 10 days after the certification decision to reverse the decision, and any such suit “shall be advanced on the court docket and heard and decided by the court as quickly as possible.” Sec. 116.200.1. “If the court decides the petition is sufficient, the secretary of state shall certify it as sufficient and attach a copy of the judgment.” Sec. 116.200.2. “If the court decides the petition is insufficient, the court shall enjoin the secretary of state from certifying the measure and all other officers from printing the measure on the ballot.” Sec. 116.200.2. “Within ten days after a decision is rendered, any party may appeal it to the supreme court.” Sec. 116.200.3.¹¹

The parties stipulated the secretary has not issued a certificate of sufficiency or insufficiency as to the referendum petition and agree the statutory deadline for certificate issuance has not passed.¹²

11. This Court has indicated in case law, see *Missourians to Protect the Initiative Process v. Blunt*, 799 S.W.2d 824, 826 n.1 (Mo. banc 1990), that section 116.200.3 does not confer appellate jurisdiction in this Court because it is not one of the enumerated grounds for this Court’s exclusive appellate jurisdiction under article V, section 3 of the Missouri Constitution.

12. The parties represented to the circuit court (and acknowledge on appeal) the statutory deadline (meaning the last possible date) for issuance of the certificate of sufficiency or insufficiency is August 4, 2026.

Despite repeatedly asserting they do not seek to interfere with the secretary’s certification process, Appellants at the same time point to material outside the record to assert the sec-

retary already has information to determine the referendum petition contains sufficient signatures to satisfy the signature requirement in article III, section 52(a). Appellants presented no record evidence supporting this assertion and, even if they had presented such record evidence, it would be contrary to their position they are not challenging the secretary’s certification process and would have no bearing on the lone argument they raise that the December 9 referendum petition filing automatically suspended HB 1. Similarly, in their petition, Appellants assert: “Secretary Hoskins is (wrongly) interpreting the referendum laws to reach an unconstitutional result: denying Missourians their right to approve or reject [HB 1] at the ballot box.” Petition for Declaratory Judgment and Injunctive Relief at 8. But, again, Appellants explicitly represented to the circuit court they do not challenge

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While acknowledging the signature requirement in article III, section 52(a), Appellants, nonetheless, assert the December 9 referendum petition filing automatically suspended HB 1 because, otherwise, the following language in article III, section 52(b) is rendered meaningless: “Any measure referred to the people shall take effect when approved by a majority of the votes cast thereon, *and not otherwise.*” (Emphasis added). Appellants’ interpretation of article III, section 52(b) ignores that article III, section 52(b) applies only to “[a]ny measure referred to the people[.]” Under article III, section 52(a), a “referendum may be ordered . . . either by petitions signed by five percent of the legal voters in each of two-thirds of the congressional districts in the state, or by the general assembly, as other bills are enacted.” Under the plain language of article III, sections 52(a) and 52(b), no measure is referred to the people until the signature requirement is satisfied, and Appellants insist they do not challenge the signature verification process itself. While article III, section 52(b) addresses when “[a]ny measure” takes effect after having been referred to the people, it does not provide the mere filing of a referendum petition automatically suspends the act of the General Assembly at issue.

Appellants acknowledge “[a] proposed referendum can proceed to a vote *only if* its organizers collected the requisite number of valid signatures[.]” but contend article III, section 52(b) requires automatic suspension upon delivery of signed refer-

the secretary’s refusal to certify a referendum, and they likewise represented to the circuit court they do not dispute the certification process is statutorily delegated to the secretary and that their requested relief does not seek to interfere with that process. Appellants presented no record evidence of how the secretary’s compliance with the statutory scheme will deny Appellants the right of referendum.

endum petitions because, if the secretary deems the referendum petition insufficient under chapter 116, then the referendum was not properly “referred to the people” under article III, section 52(b) and the automatic suspension can be lifted, allowing the law to go into effect. Brief of Appellants at 38-39. Appellants’ argument ignores the plain language of article III, sections 52(a) and 52(b), which does not provide for a “proper” referral to the people and does not provide for automatic suspension upon delivery of signed referendum petitions irrespective of the signature requirement in section 52(a). Instead, article III, section 52(a) sets out when “[a] referendum may be ordered[.]” which is only, as relevant here, “by petitions signed by five percent of the legal voters in each of two-thirds of the congressional districts in the state[.]” Then, under article III, section 52(b), “[a]ny measure referred to the people shall take effect when approved by a majority of the votes cast thereon, and not otherwise.”

In addition to Appellants’ interpretation of article III, sections 52(a) and 52(b) having no support in the plain language of those provisions, Appellants offered no evidence the secretary could have determined, or did determine, compliance with the constitutional signature requirement on December 9 when the referendum petition was filed. Appellants stipulated the secretary has not issued a certificate of sufficiency under section 116.150. Further, stipulated Exhibits 2 and 3, a “box receipt” and a “referendum receipt form,” both re-

The statutory scheme contemplates the referendum election will occur at the November general election unless the General Assembly designates another date. *See* secs. 116.010(3); 116.030; *see also* Mo. Const. art. III, sec. 52(b) (“All elections on measures referred to the people shall be had at the general state elections, except when the general assembly shall order a special election.”).

flect a submission date of December 9, with Exhibit 2 indicating the secretary received “691 boxes of referendum petition pages” and Exhibit 3 indicating by county the number of “pages submitted as reported by petitioner.” Exhibit 2, signed by the referendum petitioner organizer, states: “Acceptance of this referendum and issuance of this receipt does not constitute a determination by the [s]ecretary [] that the petition was submitted in accordance with Chapter 116, RSMo.” Exhibit 3, also signed by the referendum petitioner organizer, states: “Acceptance of this petition does not constitute a determination by the [s]ecretary [] that the petition was submitted in accordance with Chapter 116 RSMo.” The record does not reflect that anything occurred on December 9 that could be construed as the secretary certifying compliance with the signature requirement in article III, section 52(a).

Appellants rely heavily on *State ex rel. Kemper v. Carter*, 257 Mo. 52, 165 S.W. 773, 779 (Mo. banc 1914), in which this Court concluded:

[A]ll acts of the Legislature, touching which the referendum may be properly invoked, are suspended by the filing of a legal, sufficient, and timely petition for the submission of such acts to a vote of the people for their approval or rejection, and that all such acts take effect when and only after a vote of the people has approved them at an election in which a majority of the votes are cast in favor of such act.

13. *Kemper* involved article IV, section 57 of the 1875 Missouri Constitution, as amended in 1908. 165 S.W. at 777. This action concerns the current Missouri Constitution, with article III, sections 49, 52(a), and 52(b) first adopted in the 1945 Missouri Constitution. This distinction is of little import because the 1908 constitutional provisions and 1945 constitutional provisions are substantially similar.

While it is true this Court in *Kemper* held “the filing of a legal, sufficient, and timely [referendum] petition” suspends any act of the General Assembly at issue in the petition, *Kemper* does not resolve the legal issue presented here because it involved “an admittedly sufficient [referendum] petition[.]” *Id.* As this Court noted, “relator does not contend that there were not sufficient petitioners, or that the names contained thereon were not those of legally qualified signers[.]” *Id.* Further, in *Kemper*, this Court did not hold mere physical delivery of referendum petitions automatically suspends the act of the General Assembly; instead, this Court noted a “legal, sufficient, and timely” referendum petition is required. *Id.* Here, there is no admission or agreement as to the referendum petition’s sufficiency. In fact, Appellants do not dispute the secretary is engaging in the statutory signature verification process, a statutory process that did not exist when *Kemper* was decided, the lack of which process this Court noted in *Kemper*. *Id.* at 781 (“[T]here is no specific statute requiring the [s]ecretary . . . to perform any other duty . . . at any fixed time[.]”).¹³ As discussed previously, chapter 116 went into effect in January 1981. The current version of section 116.130 has been in effect since 2003. *See* sec. 116.130, RSMo Supp. 2003. The current version of section 116.150 has been in effect since 1999. *See* sec. 116.150, RSMo Supp. 1999. Simply put, *Kemper* did not consider or decide the precise legal issue presented in this case.¹⁴

14. The same is true of other authorities on which Appellants rely. *See No Bans on Choice v. Ashcroft*, 638 S.W.3d 484, 486, 491 (Mo. banc 2022) (holding sections 116.180 and 116.334.2 facially unconstitutional as in direct conflict with article III, sections 49 and 52(a) of the Missouri Constitution when “the full signature-collection period for a referendum on a measure passed on the last day of

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Appellants also point to examples of former secretaries of state publicly stating a bill was suspended after referendum petition signatures were filed. Appellants assert automatic suspension as of December 9 must occur or their right to referendum will be lost. But this misunderstands how chapter 116 interacts with article III, sections 49, 52(a), and 52(b). In the examples Appellants cite, the former secretaries of state assumed the referendum petition was “legal, sufficient, and timely[.]” Here, the secretary has chosen to do the exact opposite. The secretary has assumed the referendum petition is not “legal, sufficient, and timely” and has chosen to move forward with his statutory review process under the assumption HB 1 was not referred to the people and went into effect on December 11, 2025.

[6] The secretary’s assumption the referendum petition filed on December 9 was not “legal, sufficient, and timely” does not affect the right of referendum in article III, sections 49, 52(a), and 52(b), which the people reserved to themselves in the Missouri Constitution long before chapter 116 went into effect in January 1981, nor does it decide whether HB 1 did (or did not) go

into effect on December 11, even though the chapter 116 certification process was ongoing. In chapter 116, the General Assembly set out a detailed procedure for the secretary to certify, subject to challenge and court review, whether a “legal, sufficient, and timely” referendum petition was filed, as required by article III, sections 49, 52(a), and 52(b), but chapter 116 does not override the Missouri Constitution. *See State ex rel. Nixon v. Blunt*, 135 S.W.3d 416, 420 (Mo. banc 2004) (concluding the secretary cannot exercise official duties in a manner to frustrate constitutional provisions).

Only when the chapter 116 certification process is final (i.e., when the secretary has issued a certificate of sufficiency or insufficiency under section 116.150 and the judicial review of that certificate the General Assembly authorized in section 116.200 is complete) can it be determined whether the referendum petition was “legal, sufficient, and timely” (or not) when it was filed on December 9.

If the December 9 referendum petition filing is ultimately determined to be insufficient, HB 1 became the law on December

the legislative session is only 90 days, and sections 116.180 and 116.334.2 permit the government to take away 51 of those days” (internal quotation omitted)); *State ex rel. Barrett v. Dallmeyer*, 295 Mo. 638, 245 S.W. 1066, 1069 (Mo. banc 1922) (predating the current constitution and chapter 116 and concluding, with no discussion of the constitutional signature requirement or the referendum petition’s sufficiency, the filing of referendum petitions had the effect of postponing a legislative act pending the outcome of the referendum); *Kaesser v. Becker*, 295 Mo. 93, 243 S.W. 346, 352 (Mo. banc 1922) (predating the current constitution and chapter 116 but affirming a decision enjoining the secretary from placing a referendum petition on the ballot due to lack of compliance with the signature requirement and indicating, in referendum, “a solemn legislative act is sought to be set aside”); *State ex rel. Drain v. Becker*,

240 S.W. 229, 232-33 (Mo. banc 1922) (predating the current constitution and chapter 116 and concluding, with no discussion of the constitutional signature requirement or the referendum petition’s sufficiency, the legislature could not repeal a bill pending the outcome of the referendum); *Kaw Transp. Co. v. Whitmer*, No. CV181-778cc, slip op. at 1-2 (Cole Cnty. Cir. Ct. Sept. 29, 1981) (rejecting the plaintiffs’ argument the effective date of Senate Substitute for House Bill 695 was not suspended and stayed when the secretary had announced “his ‘cursory’ examination of the referendum petition indicated that the effective date of the legislation in question should be stayed[.]” and the circuit court “presume[d] that the [secretary] has complied with the criteria set forth in [s]ection 116.120 and that he found that the petitions in question complied with the Constitution [] and with the provisions of [s]ection 116”).

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11 under article III, section 29 because no “legal, sufficient, and timely” referendum petition was filed before expiration of the 90-day period in article III, section 52(a). *See State ex rel. Moore v. Toberman*, 363 Mo. 245, 250 S.W.2d 701, 703, 705-07 (Mo. banc 1952) (affirming a circuit court judgment concluding a law took effect 90 days after recess of the session in which it was enacted under article III, section 29 when only an insufficient referendum petition had been filed before the 90 days expired because the referendum petition deficiencies could not be remedied by a supplemental filing beyond the time limits in article III, sections 29 and 52(a)).

[7] If, however, the December 9 referendum petition filing is ultimately determined to be sufficient, article III, section 52(b) applies. In that case, because a “legal, sufficient, and timely” referendum petition was filed on December 9—before HB 1 went into effect on December 11—HB 1 did not take effect on December 11, HB 1 was “referred to the people” as of December 9, and HB 1 “shall take effect when approved by a majority of the votes cast thereon, and not otherwise.” Mo. Const. art. III, sec. 52(b).¹⁵

Because the secretary’s certification process under chapter 116 is ongoing and has not been finally determined, it is impossi-

ble to say as of this opinion whether the December 9 referendum petition filing was “legal, sufficient, and timely” and, therefore, whether HB 1 went into effect on December 11 or whether HB 1 was referred to the people as of December 9 and can only go into effect when approved by a majority of the votes cast thereon.

[8] Appellants also assert sections 116.130 and 116.150 are unconstitutional as in conflict with article III, sections 49, 52(a), and 52(b), at least as applied to these facts, to the extent those statutes permit the secretary to delay suspension of a referred law until issuance of a certificate of sufficiency. As set out above, nothing in article III, sections 49, 52(a), or 52(b) provides a referendum petition filing automatically suspends the act of the General Assembly at issue. Article III, section 52(a) precludes such a construction because it sets out a signature requirement that must be met for a measure to be referred to Missouri citizens. There is no conflict between article III, sections 49, 52(a), and 52(b) and sections 116.130 and 116.150 on the facts alleged because only when the secretary’s review along with any judicial review is complete will the question be decided of whether HB 1 went into effect on December 11 or was referred to

15. The state asserts Appellants conceded only the secretary refers legislation to the people. Interpretation of a constitutional provision is an issue of law subject to this Court’s *de novo* review and not subject to admission or concession by any party. *Luther*, 730 S.W.3d at 570. The state’s position only the secretary can refer legislation to the people for a referendum vote is inconsistent with the plain language of article III, section 52(a), which says: “A referendum may be ordered . . . by petitions signed by five percent of the legal voters in each of two-thirds of the congressional districts in the state[.]” Section 52(a) provides only that referendum petitions shall be filed with the secretary. *See also State v. Jenkins*, 303 Neb. 676, 931 N.W.2d 851, 879 (2019)

(“We conclude that upon the filing of a referendum petition appearing to have a sufficient number of signatures, operation of the legislative act is suspended so long as the verification and certification process ultimately determines that the petition had the required number of valid signatures.”) (rejecting the argument the legislative act took effect and was suspended only months later when the Nebraska secretary of state finished verifying signatures and certified the petition as sufficient and holding, instead, the secretary’s certification *relates back to the date on which the petition was filed* such that the legislative act never took effect and would not do so until approved by the voters).

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the people on December 9 before HB 1 went into effect. *See Kemper*, 165 S.W. at 781 (holding the acts of the secretary “relate back to” the date the referendum petition was filed).

Because there is no conflict on these facts between article III, sections 49, 52(a), and 52(b) and sections 116.130 and 116.150 as to Appellants’ argument the December 9 referendum petition filing automatically suspended HB 1, this Court rejects Appellants’ as-applied challenge to the constitutional validity of sections 116.130 and 116.150.

Conclusion

The circuit court correctly concluded the December 9 referendum petition filing did not automatically suspend HB 1 under article III, sections 49, 52(a), or 52(b) of the Missouri Constitution. This Court affirms the circuit court’s judgment. No Rule 84.17 motions are permitted.

All concur.



STATE of Missouri, Respondent,

v.

James GUTHRIE, Appellant

No. SC101373

Supreme Court of Missouri,
en banc.

Opinion issued May 19, 2026

Background: Defendant was convicted in the Circuit Court, Mississippi County, R. Zachary Horack, J., of sexual offenses against two minor victims, including first-degree statutory rape. Defendant appealed

from statutory rape conviction as to one victim.

Holdings: On transfer from the Court of Appeals, the Supreme Court, Fischer, J., held that evidence was sufficient to support finding that victim was less than 14 years old when defendant had sexual intercourse with victim.

Affirmed.

Ransom, J., filed dissenting opinion.

1. Criminal Law ⇌1159.2(7)

When considering the sufficiency of the evidence on appeal, the Supreme Court must determine whether sufficient evidence permits a reasonable juror to find guilt beyond a reasonable doubt.

2. Criminal Law ⇌1144.13(1)

On review of the sufficiency of the evidence for a conviction, the Supreme Court accepts as true all evidence tending to prove guilt together with all reasonable inferences that support the verdict, and ignores all contrary evidence and inferences.

3. Criminal Law ⇌1159.2(1)

In reviewing whether sufficient evidence supports a criminal conviction, the Supreme Court does not act as a super juror with veto powers, but gives great deference to the trier of fact.

4. Criminal Law ⇌1144.13(5), 1159.2(1)

On review of the sufficiency of the evidence for a conviction, the Supreme Court cannot supply missing evidence, or give the State the benefit of unreasonable, speculative, or forced inferences.

5. Infants ⇌1755**Sex Offenses ⇌263**

Notwithstanding minor victim’s testimony that she was 14 years old when defendant had sexual intercourse with her,

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If Weeks were seeking information both Webster Groves and St. Louis County. Webster Groves maintained in physical documents in a file cabinet, then such information would indisputably be subject to disclosure. In that scenario, Webster Groves would have to review the file and copy the documents for production. Such copying would not be the creation of a new record. Section 610.026 (“[E]ach public governmental body shall provide access to, and, upon request, furnish copies of public records[.]”); *see also Immanuel*, 85 A.3d at 886 (hypothesizing the only functional difference between a request for physical documents and data “is that IT professionals would perform here the work that clerical professionals would perform on a paper file”). In other words, Weeks is seeking an existing “public record.” Extracting existing data into a useable electronic format is not the creation of a new record. Holding otherwise essentially prohibits access to public records maintained in a public governmental body’s database.

Because there are no remaining questions of material facts, Webster Groves’ and St. Louis County’s summary judgment motions fail as a matter of law. The circuit court’s grant of summary judgment in Webster Groves’ and St. Louis County’s favor should be vacated.

For these reasons, I concur with the principal opinion’s remand of the case as to

produce existing records and data is not the same as searching an electronic database to compile information about the information the database contains”).

Additionally, in *Arizona Department of Child Safety*, 377 P.3d at 342, the ACLU of Arizona sought records concerning child welfare services that required the department of child safety to tally or compile numerical or statistical information and percentages. For example, one request asked the department of child safety to provide “[t]he number of children who were substantiated victims of abuse and/or neglect perpetrated by their caregiv-



Mary Elizabeth Anne COLEMAN, Kathleen Anne Forck, Hannah Sue Kelly and Marguerite Ann “Peggy” Forrest, Respondents,

v.

John R. ASHCROFT, Respondent, and

Missourians for Constitutional Freedom and Anna Fitz-James, Intervenor-Appellants.

No. SC 100742

Supreme Court of Missouri,
en banc.

Opinion issued September 20, 2024

Background: Opponents of initiative petition to amend the Missouri Constitution to add a provision protecting the right to reproductive freedom filed action against Secretary of State, alleging that the petition failed to include every constitutional provision and statute affected by the

er(s) while placed’ in out-of-home: (a) unlicensed foster care; (b) licensed foster care; (c) congregate care.” *Id.* (alterations in original). The court held the department’s case management system was a public record, and Arizona’s public records law required an agency to search its electronic database for public records. *Id.* at 344-45. But Arizona public records law did not require the department to tally or compile previously untallied and uncompiled information or data to respond to a public records request. *Id.* at 345. Such would require the department to create a new record. *Id.* at 347.

amendment, violated the single subject requirement, and that statute setting deadlines to challenge Secretary's certification of the initiative was unconstitutional. Proponents of the amendment intervened as defendants. Following a bench trial, the Circuit Court, Cole County, Christopher K. Limbaugh, J., entered judgment for opponents and ordered the amendment removed from the ballot. Proponents appealed.

Holdings: The Supreme Court, Wilson, J., held that:

- (1) initiative petition met the requirement that it identify the existing constitutional provisions that were in direct conflict with or were irreconcilably repugnant to the proposed amendment;
- (2) initiative petition met statutory requirements that it include "all sections of existing law or of the constitution" that would be repealed if adopted;
- (3) initiative petition did not violate the "single subject" requirement for proposed constitutional amendments; and
- (4) opponent's claim that statute setting deadlines to challenge Secretary's certification was unconstitutional was moot.

Reversed.

Powell, J., filed concurring opinion.

Broniec, J., filed dissenting opinion, with which Fisher and Gooch, JJ., concur.

1. Appeal and Error ⚡3237

When a case is tried on stipulated facts, the Supreme Court needs to determine only whether the circuit court drew the proper legal conclusions from the facts stipulated.

2. Appeal and Error ⚡3137, 3187

When there are no disputed material facts and the only questions that were addressed by the circuit court and that are

before the Supreme Court are questions of law, the Court's review of the circuit court's judgment is de novo.

3. Constitutional Law ⚡545

Under the Missouri Constitution, the full text of a constitutional amendment proposed by initiative petition must identify on each of the petition's signature pages all articles or sections of the existing constitution that would be repealed should the proposed amendment be adopted by the voters, but there is no requirement that the amendment list all statutes that might be subsequently declared invalid should the amendment be adopted. Mo. Const. art. 3, § 50.

4. Constitutional Law ⚡545

Initiative petition to amend the Missouri Constitution to add a provision protecting the right to reproductive freedom met the requirement that it identify the existing cognate constitutional provisions that were in direct conflict with or were irreconcilably repugnant to the proposed amendment; nothing about the amendment rescinded any existing provision in the constitution or was in such direct conflict with or irreconcilably repugnant to the equal protection clause, the due process clause, the open courts clause, or the Missouri Stem Cell Research and Cures Initiative such that it fairly could be said that the amendment repealed and replaced those sections in all but name. Mo. Const. art. 1, §§ 2, 10, 14; Mo. Const. art. 3, §§ 38(d), 50.

5. Constitutional Law ⚡545

Initiative petition to amend the Missouri Constitution to add a provision protecting the right to reproductive freedom met statutory requirements that it include "all sections of existing law or of the constitution" that would be repealed if adopted, where the petition stated that it

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added a provision to the constitution, and the petition did not rescind any existing constitutional provisions and complied with the constitutional provision governing initiative petitions. Mo. Const. art. 3, § 50; Mo. Ann. Stat. § 116.050.2(2).

6. Constitutional Law ☞545**Statutes ☞1748**

Under statute establishing requirements for initiative petitions, initiative petitions proposing a statute must include all sections of existing statutes that would be repealed by the measure, and initiative petitions proposing a constitutional amendment must include all sections of the existing constitution that would be repealed by the measure. Mo. Ann. Stat. § 116.050.2(2).

7. Election Law ☞644

Statutes bearing on the people's reserved power of initiative must be liberally construed so as not to interfere with the initiative process. Mo. Ann. Stat. § 116.050.

8. Statutes ☞1744

Statute setting forth the requirements for initiative and referendum petitions required no more than what was required by initiative petition provision in Missouri Constitution: initiative petitions proposing a constitutional amendment must include all sections of the existing constitution that would be repealed by the measure. Mo. Const. art. 3, § 50; Mo. Ann. Stat. § 116.050.2(2).

9. Constitutional Law ☞632

A proposed constitutional amendment does not, if approved, implicitly "repeal" all statutes that are, in whole or in part, in conflict with or irreconcilably repugnant to the constitutional amendment; the function of declaring a statute invalid under a constitutional provision is a judicial function, and is in no way the same or similar to the

legislative act of "repeal." Mo. Const. art. 3, § 50; Mo. Ann. Stat. § 116.050.2(2).

10. Statutes ☞1491

A "repeal" is a legislative act that removes the repealed section immediately, altogether, and for all purposes.

11. Constitutional Law ☞625

Proposed amendment to Missouri Constitution to add a provision protecting the right to reproductive freedom, if approved by voters via initiative, had no effect on existing statutes unless and until such an effect was declared by the courts; statutes would not be affected unless and until a party timely and properly brought a constitutional challenge in a case in which the validity of that statute was germane, and a court of competent jurisdiction declared the statute invalid in whole or in part. Mo. Const. art. 3, § 50.

12. Constitutional Law ☞545

Neither the statute setting forth requirements for initiative and referendum petitions nor the Missouri Constitution initiative petition provision require initiative petitions to amend the constitution to include a statement or disclaimer regarding which sections of existing law or of the constitution the amendment, if adopted, might affect; such a statement would be merely speculative. Mo. Const. art. 3, § 50; Mo. Ann. Stat. § 116.050.2(2).

13. Constitutional Law ☞655, 990

All properly enacted statutes enjoy, in the first instance, a presumption of constitutional validity; however, when such statutes interfere with or impede a right conferred by the Constitution, the statute must be held unconstitutional.

14. Election Law ☞644, 645

To avoid having to reach the question of constitutional validity, statutes bearing on the people's reserved power of initiative

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must be liberally construed so as not to interfere with the initiative process; if this is not possible, and the statute interferes with and impedes the initiative power, the Supreme Court will not hesitate to declare that statute unconstitutional. Mo. Const. art. 3, § 50.

15. Constitutional Law ⚖️554

Initiative petition to amend the Missouri Constitution to add a provision protecting the right to reproductive freedom did not violate the “single subject” requirement for proposed constitutional amendments; the proposed amendment clearly related to one subject, which was stated in amendment itself, i.e., the right to reproductive freedom, and the various sections related to or were properly connected to protecting that right. Mo. Const. art. 3, § 50; Mo. Const. art. 13, § 2(b).

16. Constitutional Law ⚖️526

When a proposed constitutional amendment violates the single subject requirement, there are one or more provisions related to subject A and one or more related to subject B, but no subject to which all provisions relate; If there is no constitutional defect in the substance of any of the provisions, and no constitutional bar to either group of provisions being proposed and enacted on their own, the defect is that both groups of provisions are proposed in the same amendment, which makes this a matter of form rather than substance. Mo. Const. art. 3, § 50.

17. Constitutional Law ⚖️553

To determine if a proposed constitutional amendment satisfies the single subject requirement, the Supreme Court will review the provisions of the proposal to see if all matters included relate to a readily identifiable and reasonably narrow central purpose. Mo. Const. art. 3, § 50; Mo. Const. art. 13, § 2(b).

18. Constitutional Law ⚖️553

In determining whether a proposed constitutional amendment satisfies the single subject requirement, the proposal must be liberally and nonrestrictively construed so that provisions connected with or incident to effectuating the central purpose of the proposal will not be treated as separate subjects. Mo. Const. art. 3, § 50; Mo. Const. art. 13, § 2(b).

19. Constitutional Law ⚖️553

In the context of determining if a proposed constitutional amendment satisfies the single subject requirement, a measure may encompass one subject, and yet effect several changes and incidents, if all are germane to its one controlling purpose. Mo. Const. art. 3, § 50; Mo. Const. art. 13, § 2(b).

20. Constitutional Law ⚖️553

Whether an initiative petition to amend the Missouri Constitution may, if adopted, affect existing statutes is not at all relevant to, far less dispositive of, whether the proposed amendment contains more than one subject and matters properly connected thereto in violation of the “single subject” requirement; this is particularly so when the proposed amendment is liberally and nonrestrictively construed so that provisions related to, or incident to effectuating the purpose of the proposal are not misidentified as separate subjects. Mo. Const. art. 3, § 50; Mo. Const. art. 13, § 2(b).

21. Constitutional Law ⚖️553

When determining whether a proposed constitutional amendment violates the single subject requirement, the constitutional touchstone is not whether all provisions in proposed constitutional amendment relate to each other, but instead whether they each relate to reasonably specific purpose. Mo. Const. art. 3, § 50; Mo. Const. art. 13, § 2(b).

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22. Constitutional Law ¶977

Claim brought by opponents of initiative petition to amend the Missouri Constitution to add a provision protecting the right to reproductive freedom, alleging that statute setting deadlines to challenge Secretary's certification was unconstitutional because it unfairly limited their time to challenge Secretary's decision to certify the amendment to be on the ballot at the general election, was moot; circuit court and the Supreme Court were able to fully examine the claims, opponents were not injured by the perceived defects of the statute, and opponents were aware that Secretary had made a final decision that the form of the petition was proper 17 months earlier. Mo. Const. art. 3, § 50; Mo. Ann. Stat. §§ 116.200, 116.332.4.

APPEAL FROM THE CIRCUIT COURT OF COLE COUNTY, The Honorable Christopher K. Limbaugh, Judge

The proponents were represented by Loretta K. Haggard, Christopher K. Grant and Sally Barker of Schuchat, Cook & Werner in St. Louis, (314) 621-2626; Charles W. Hatfield, Alixandra S. Cossette, Alexander C. Barrett and Carleigh M. Cavender of Stinson LLP in Jefferson City, (573) 636-6263; and Tori Schafer and Jonathan D. Schmid of the American Civil Liberties Union of Missouri Foundation in St. Louis, (314) 652-3114.

The opponents were represented by Mary Catherine Martin of the Thomas More Society in Clayton, and Timothy Belz of Clayton Plaza Law Group in Clayton, (314) 726-2800.

The secretary of state was represented by Solicitor General Joshua Divine and Andrew J. Crane of the attorney general's office in Jefferson City, (573) 751-3321.

Two groups filed briefs as friends of the Court. The mayors of Columbia, Kansas City and St. Louis and the St. Louis County executive were represented by Arin Smith of Dowd Bennett LLP in St. Louis; Joshua A. Rosenthal of the Public Rights Project in Oakland, California; and Naomi R. Tsu of Hood River, Oregon; additionally, Gavriel Schreiber of the Kansas City mayor's office represented that mayor.

Residents and taxpayers Sarah Lochman and Barbara Schnarr were represented by Kimberly J. Mathis of the Law Office of Kimberly J. Mathis, Esq., LLC in St. Louis.

Paul C. Wilson, Judge

This case is not about abortion. It concerns only what information the constitution requires proponents to include on any initiative petition. It is about form and procedure, not substance.

The Attorney General approved the form of the Amendment 3 petition 17 months ago, in March 2023. If there was a defect in the form of the petition, it is fair to assume the state's chief legal officer would have identified it and notified the Secretary of State. He did not. Then, pursuant to section 116.332.4,¹ the Secretary of State conducted an independent analysis of the form of the petition and made the "final decision" that it was in proper form. Again, if there was a defect, it is fair to assume the one constitutional officer statutorily designated to supervise every initiative petition from start to finish would have identified it. He did not.

The reason these decisions by the Attorney General and the Secretary of State are so important is they occur at the beginning of the process, when an error in form can be corrected with minimum disruption to

1. All statutory references are to RSMo 2016

unless otherwise noted.

the citizens' constitutional power of initiative petition. Perhaps more important, if (as here) the claimed defect is that the petition omits required information essential for Missourians to have before deciding whether to sign the petition in the first instance, a correction at the beginning of the process – before signatures are gathered – protects that interest. One that occurs 17 months later, after hundreds of thousands have signed the petition and those signatures have been verified and counted, and the measure has been certified for the ballot, does not.

Proponents of Amendment 3 relied on the decisions by the Attorney General and the Secretary that their petition was in proper form and circulated that petition for signatures. They collected all the signatures the constitution requires and tens of thousands more. The Secretary verified and counted those signatures and certified they were sufficient for Amendment 3 to be placed on the 2024 general election ballot. That certification included the Secretary's conclusion the petition complied in every respect with the constitution and the laws of this state, including the form requirements that the Secretary had made a "final decision" were satisfied more than a year earlier. Respondents Coleman, Forck, Kelly and Forrest (collectively, "Opponents") were entitled to challenge that certification under section 116.200. On August 22, 2024, they did so.

Opponents challenge the petition's form, which was unchanged since its first approval by the Attorney General and the Secretary of State in March 2023. They claim that, under article III, section 50 of the Missouri Constitution and section 116.050.2(2), Fitz-James and Missourians for Constitutional Freedom (collectively, "Proponents") were required to include in the petition every constitutional provision and every statute that may be invalidated,

limited, or otherwise impacted if voters approve Amendment 3. But section 116.050.2(2) imposes no such requirement. Even if it did, nothing in article III, section 50 imposes such a requirement, and restrictions on the people's power of initiative must be found in the constitution. They cannot be imposed by the general assembly. *See Rekart v. Kirkpatrick*, 639 S.W.2d 606, 608 (Mo. banc 1982) (holding a statute unconstitutional because it "interfere[d] with and impede[d] the initiative power").

So, the question is only what the constitution requires. This Court has stated article III, section 50 requires a petition proposing a constitutional amendment to identify those existing sections of the **constitution** utterly inconsistent and irreconcilable with the proposed amendment. *Buchanan v. Kirkpatrick*, 615 S.W.2d 6, 15 (Mo. banc 1981). But this Court has **never** held that article III, section 50 requires a petition proposing a constitutional amendment to identify all **statutes** that might later be declared invalid in whole or in part if the constitutional amendment is approved by the voters. Such a wide-ranging extension of *Buchanan* finds no basis in the reasoning of that case or the cases on which it relies, no basis in the text of the constitution, and imposes burdensome requirements with which drafters of initiative petitions cannot reasonably comply. Accordingly, this Court refuses Opponents' invitation to extend *Buchanan* and thereby impose on Proponents a new form requirement – more than a year after the two relevant constitutional officers approved the form of their petition – that no prior initiative petition has had to meet. Because Amendment 3 does not purport to repeal any existing constitutional provision and is not so utterly and completely inconsistent with any existing constitutional article or section as to constitute a

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direct conflict or irreconcilable repugnance, Opponents' first challenge fails.

Opponents' second claim again asserts a defect neither the Attorney General nor the Secretary of State found 17 months ago when each of them approved the form of Amendment 3's petition. This time, the claimed defect is that Amendment 3 violates the "single subject" requirement of article III, section 50 and article XIII, section 2(b). Constitutional provisions, by their nature as part of the state's fundamental law, often speak in general terms and necessarily have wide-reaching effects. As a result, the constitutional "single subject" requirement prohibits only proposed constitutional amendments that have multiple unrelated provisions. All provisions need not relate to each other. Instead, they must either all relate to some single, reasonably specific subject or be "properly connected therewith." Mo. Const. art. III, § 50; art. XIII, § 2(b).

Opponents' claim that Amendment 3 violates the constitutional "single subject" requirement is barely colorable. The proposed amendment identifies its purpose as protecting reproductive freedom. All its provisions easily bear a sufficient relationship to that subject – or are properly connected to it – to satisfy article III, section 50 and article XIII, section 2(b). Like their first claim, Opponents' second attack on Amendment 3 fails.

Finally, Opponents assert a third claim. This claim does not attack Amendment 3 but, rather, claims that 116.200.1 is unconstitutional because it unfairly limits a citizen's right to challenge the Secretary of State's certification that an initiative is sufficient to be placed on the ballot. Specifically, section 116.150 requires the Secretary to certify that a petition has (or does not have) enough valid signatures and is (or is not) sufficient to be placed on the ballot, and the Secretary must make this

certification by the 13th Tuesday prior to the election. Section 116.200.1 permits any citizen to challenge that certification within 10 days. Section 115.125.3, RSMo Supp. 2018, however, prohibits changes to the ballot (including those ordered by a court) fewer than eight weeks before the election. As a result, when the Secretary waits until the very last day to certify a petition as sufficient (as he did here), Opponents point out that a citizen challenging that certification has at most only 28 days to prosecute that challenge, including appeals (if any). And, because Opponents waited nine days to file their challenge, they had only 19 days to complete the process.

The circuit court and this Court were able to fully analyze and finally address Opponents' first two claims notwithstanding the very demanding timetable. For that reason, Opponents' third claim is denied as moot. Nevertheless, the concerns Opponents raised in this claim do resonate with this Court. When the Secretary certifies a petition at the very end of the statutory period for doing so, challenges to that certification under section 116.200.1 must be expedited to – and sometimes very nearly beyond – the limits of thorough advocacy and judicial stamina. To be sure, this cannot be avoided when the claim challenges whether a sufficient number of valid signatures were submitted to the Secretary. That is the last decision the Secretary makes, and it necessarily comes at the end of the initiative process.

But there is no similar justification for delaying to the very end of the process claims regarding the form of the petition. Section 116.200.1 sets only the last day for such claims; it does not prevent them from being raised earlier. The Attorney General and the Secretary approved the form of the Amendment 3 petition more than 17 months ago. It has not changed. Opponents had, or had access to, that petition

immediately thereafter (if not before). If the Secretary had determined the form was deficient all those months ago (either on one of the grounds Opponents claim or any other), Proponents could have rectified the defect or challenged the Secretary's decision. Section 116.332.4 calls this a "final decision" and requires written notice to the person who submitted the petition. Section 536.150 provides that, when an

administrative officer . . . shall have rendered a decision which is not subject to administrative review, determining the legal rights, duties or privileges of any person . . . and there is no other provision for judicial inquiry into or review of such decision, such decision may be reviewed by suit for injunction, certiorari, mandamus, prohibition or other appropriate action[.]

§ 536.150. *Cf. State ex rel. Fitz-James v. Bailey*, 670 S.W.3d 1, 13 (Mo. banc 2023) (holding mandamus was proper to compel a state official to comply with statutory requirements in the initiative process). Accordingly, a proponent has at least two ways to challenge decisions as to form at the beginning of the process.

It is an open question, however, whether an opponent can challenge the Secretary's decision approving a petition's form, whether under section 536.150, or a simple petition for writ of mandamus, or a declaratory judgment action, or some other means. No one knows because Opponents did not try. As has been said for centuries, *vigilantibus et non dormientibus jura sub-*

veniunt, or "[t]he laws aid the vigilant, not those who sleep." *Black's Law Dictionary* 1764 (8th ed. 2004). Opponents have not suffered the application of this doctrine in this case because this Court was able to reach and timely dispose of their first two claims on the merits. But future opponents who fear getting trapped between the Scylla and Charybdis of sections 116.200.1 and 115.125.3, or who wish to challenge the constitutional validity of either statute, should give thought to at least attempting to assert their form-related claims at the beginning of the process when the Secretary makes the "final determination" under section 116.332.4 that the form of a petition is correct.

For these reasons, as explained more fully below, this Court entered an order on September 10, 2024, that the Secretary's certification approving Amendment 3 for the ballot was correct, that the circuit court's judgment rejecting that certification was reversed, and that the Secretary must take all steps necessary to see that Amendment 3 is put before the voters at the 2024 general election. This opinion follows.²

BACKGROUND

On March 8, 2023, Dr. Anna Fitz-James submitted to the Secretary of State, as required by section 116.332.1, a sample petition sheet for the proposed constitutional amendment now referred to as Amendment 3.³ The Secretary posted the text of the initiative on his website,⁴ as he

court's judgment and directed the Secretary of State to place the initiative proposition on the . . . ballot."').

3. At the same time, Fitz-James submitted 11 similar sample petition sheets that are not at issue in this case.

4. The full text submitted to and approved by the Secretary is as follows:

2. This practice of disposing of an appeal by order, with opinion(s) to follow, is a highly disfavored departure from this Court's usual practice. But this case is not the first time this Court has been pressed by election deadlines into using this approach. See *Rekart v. Kirkpatrick*, 639 S.W.2d 606, 607 (Mo. banc 1982) ("This appeal was expedited for hearing . . . , after which the Court issued its order, with opinion to follow, which reversed the trial

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was required to do by section 116.332.2, and sent a copy of the proposed petition to the Attorney General and the Auditor. At this point, section 116.332.1 requires both the Attorney General and the Secretary to independently assess the form of the petition to ensure it complies with all applicable requirements. The Attorney General,

pursuant to section 116.332.3, approved the form of the proposed petition and notified the Secretary. Under section 116.332.4, then, the Secretary was to review the public comments⁵ received and the Attorney General's statements as to form, and "make a final decision as to the approval or rejection of the form of the petition."

NOTICE: The proposed amendment revises Article I of the Constitution by adopting one new Section to be known as Article 1, Section 36.

Be it resolved by the people of the state of Missouri that the Constitution be amended: Section A. Article I of the Constitution is revised by adopting one new Section to be known as Article I, Section 36 to read as follows:

Section 36. 1. This Section shall be known as "The Right to Reproductive Freedom Initiative."

2. The Government shall not deny or infringe upon a person's fundamental right to reproductive freedom, which is the right to make and carry out decisions about all matters relating to reproductive health care, including but not limited to prenatal care, childbirth, postpartum care, birth control, abortion care, miscarriage care, and respectful birthing conditions.

3. The right to reproductive freedom shall not be denied, interfered with, delayed, or otherwise restricted unless the Government demonstrates that such action is justified by a compelling governmental interest achieved by the least restrictive means. Any denial, interference, delay, or restriction of the right to reproductive freedom shall be presumed invalid. For purposes of this Section, a governmental interest is compelling only if it is for the limited purpose and has the limited effect of improving or maintaining the health of a person seeking care, is consistent with widely accepted clinical standards of practice and evidence-based medicine, and does not infringe on that person's autonomous decision-making.

4. Notwithstanding subsection 3 of this Section, the general assembly may enact laws that regulate the provision of abortion after Fetal Viability provided that under no circumstance shall the Government deny, interfere with, delay, or otherwise restrict an abortion that in the good faith judgment of a treating health care professional is need-

ed to protect the life or physical or mental health of the pregnant person.

5. No person shall be penalized, prosecuted, or otherwise subjected to adverse action based on their actual, potential, perceived, or alleged pregnancy outcomes, including but not limited to miscarriage, stillbirth, or abortion. Nor shall any person assisting a person in exercising their right to reproductive freedom with that person's consent be penalized, prosecuted, or otherwise subjected to adverse action for doing so.

6. The Government shall not discriminate against persons providing or obtaining reproductive health care or assisting another person in doing so.

7. If any provision of this Section or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

8. For purposes of this Section, the following terms mean:

(1) "Fetal Viability", the point in pregnancy when, in the good faith judgment of a treating health care professional and based on the particular facts of the case, there is a significant likelihood of the fetus's sustained survival outside the uterus without the application of extraordinary medical measures.

(2) "Government",
a. the state of Missouri; or
b. any municipality, city, town, village, township, district, authority, public subdivision or public corporation having the power to tax or regulate, or any portion of two or more such entities within the state of Missouri.

5. Neither Opponents nor any other members of the public offered comments that the form of the petition was improper on any ground, let alone the grounds asserted by Opponents in this action.

The Secretary did so, approving the form of the petition for Amendment 3 and notifying Fitz-James of this “final decision.”

Once the form was approved, the Secretary prepared a summary of the measure pursuant to section 116.334.1, and the Auditor prepared a fiscal note and fiscal note summary pursuant to section 116.175.2. Together, the Secretary’s summary of the measure and Auditor’s fiscal note summary constitute the official ballot title for the measure. § 116.180. These are sent to the Attorney General for approval as to form. §§ 116.334.1, 116.175.4. The Attorney General, however, refused to approve the form of the Auditor’s fiscal note summary for Amendment 3. This refusal prevented the Secretary from certifying the official ballot title for the initiative petition under section 116.180, and delayed Proponents circulating the petition for signatures.

On May 4, 2023, Fitz-James filed a petition in circuit court seeking a writ of mandamus to compel the Attorney General to approve the fiscal note summary. The circuit court issued the writ directing the Attorney General to do so, and this Court affirmed. *Fitz-James*, 670 S.W.3d at 13.

On July 26, 2023, after the Attorney General approved the legal content of the fiscal note summary, the Secretary certified that summary and his summary statement as the official ballot title for the initiative. That same day, Fitz-James filed suit under section 116.190 claiming the Secretary’s summary was insufficient and unfair. On September 25, 2023, the circuit

court entered judgment for Fitz-James holding the summary statement was insufficient and unfair and redrafting the summary to comply with section 116.334.1. The court of appeals agreed the Secretary’s summary was insufficient and unfair, and certified a summary statement varying slightly from that crafted by the circuit court.⁶ *Fitz-James v. Ashcroft*, 678 S.W.3d 194, 215-25 (Mo. App. 2023).

With the ballot title certified, Proponents began circulating the initiative for signatures. On May 3, 2024, Proponents filed the signed petition with the Secretary of State as required by section 116.100. The Secretary reviewed and ultimately validated a sufficient number of signatures in a sufficient number of congressional districts to meet the requirements for putting Amendment 3 on the ballot. § 116.150.1. Accordingly, on August 13, the Secretary issued a certificate that the petition was sufficient. *Id.* In doing so, the Secretary not only determined that sufficient valid signatures had been submitted, but also that the petition “complies with the Constitution of Missouri and with this chapter.” § 116.120.1. But this does not mean the Secretary was entitled to re-assess matters of form he had already approved. Instead, section 116.150.2 provides: “The secretary of state shall issue a certificate **only** for a petition approved pursuant to section 116.332 [requiring the Secretary make a “final decision” as to form before the sample sheet of the petition is approved].” § 116.150.2 (emphasis added).⁷

6. In a separate action, Opponents challenged the fiscal note summary. The circuit court rejected that challenge, and the court of appeals affirmed. *Kelly v. Fitzpatrick*, 677 S.W.3d 622, 643 (Mo. App. 2023). At no point in that case did Opponents attempt to raise the arguments asserted in the present action.

7. After the circuit court entered its judgment, but while its stay was in effect, the Secretary

attempted to reverse his earlier two decisions (the first under section 116.332.4 and the other under section 116.150.1) approving the form of the Amendment 3 petition. In its September 10 order, however, this Court ruled this effort was “a nullity and of no effect” because it came long after the statutory deadline in section 116.150. Proponents’ motion for contempt was overruled, and any other pending motions were denied as moot.

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Following the certification, the Secretary assigned the heading “Amendment 3” and notified the local election authorities it would be on the 2024 general election ballot.

Section 116.200.1 gives any citizen the right to challenge the Secretary’s certification decision under section 116.150, whether the Secretary found the petition sufficient or insufficient. Under section 116.200.1, such an action must be brought no later than 10 days after the Secretary’s decision. On August 22, the ninth day, Opponents filed the present action. In Count I, Opponents claimed the petition failed to include every constitutional provision and statute that may be altered, invalidated, or otherwise limited or affected should the voters approve Amendment 3. In Count II, Opponents claimed Amendment 3 violates the single subject requirement of article III, section 50, and article XII, section 2(b) of the Missouri Constitution. Finally, in Count III, Opponents claimed section 116.200.1 is unconstitutional because it does not give them adequate time to challenge the Secretary’s certification putting Amendment 3 on the November ballot. Proponents intervened in the case as defendants and filed answers denying each count.

On Friday, September 6, the case was tried to the bench. Late that evening, the circuit court entered its judgment for Opponents on Count I, and ordered Amendment 3 removed from the November ballot. The circuit court stayed the effect of

its judgment until Tuesday, September 10, to allow for appeal. On Saturday morning, Proponents filed their notice of appeal to the court of appeals. The court of appeals promptly transferred the matter to this Court, which has exclusive appellate jurisdiction under article V, section 3 of the Missouri Constitution.⁸ This Court extended the circuit court’s stay until further order of this Court, ordered simultaneous briefing due on Monday, September 9, and set oral argument for Tuesday, September 10. Following argument, this Court on September 10 issued an order reversing the judgment of the circuit court and ordering Amendment 3 to be placed on the November ballot.

STANDARD OF REVIEW

[1,2] Before the bench trial, the parties filed joint stipulations of fact. When a case is tried on stipulated facts, this Court needs to determine only whether the circuit court drew the proper legal conclusions from the facts stipulated. *State ex rel. George v. Verkamp*, 365 S.W.3d 598, 600 (Mo. banc 2012). Because there are no disputed material facts and the only questions that were addressed by the circuit court and that are now before this Court are questions of law, this Court’s review of the circuit court’s judgment is *de novo*. *Id.*

ANALYSIS

As set forth above, Opponents raised three claims in their petition. The circuit court, relying on *Moore v. Brown*, 350 Mo.

8. Because Opponents properly raised and preserved their constitutional challenge to the validity of section 116.200.1 in the circuit court, this Court has exclusive appellate jurisdiction over Proponents’ appeal even though this Court need not reach or resolve the constitutional issue given that the Court was able to reach and resolve the merits of Opponents’ other claims within the window for such a challenge under section 116.200.1 and the

statutory deadline for ballot changes under section 115.125.3. *Boeving v. Kander*, 496 S.W.3d 498, 503 (Mo. banc 2016) (“Once the case properly invokes this Court’s jurisdiction, the ultimate determination that the . . . merits of the constitutional issue should not be addressed does not retroactively deprive this Court of jurisdiction.”) (quoting *Mayer v. Saint Luke’s Hosp. of Kan. City*, 430 S.W.3d 260, 270 (Mo. banc 2014)).

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256, 165 S.W.2d 657, 663 (Mo. banc 1942), *State ex rel. Halliburton v. Roach*, 230 Mo. 408, 130 S.W. 689, 699 (Mo. banc 1910), and section 116.050.2(2), entered judgment for Opponents on Count I, holding Amendment 3 fails to include the “full text of the measure” as required by article III, section 50 in that it fails to identify all statutes that Amendment 3 would repeal if the voters approve it. As explained below, the circuit court’s legal conclusions were erroneous, and its judgment on Count I is reversed.

Because the circuit court enjoined the Secretary or others from putting Amendment 3 on the November 2024 general election ballot based on Count I, the circuit court determined it need not review Opponents’ remaining two claims and denied those claims as “moot.” Nevertheless, Opponents argue that – if the judgment cannot stand on the grounds adopted by the circuit court – this Court should affirm that judgment on the alternate ground that Amendment 3 is insufficient because it violates the constitutional “single subject” requirement in article III, section 50 and article XIII, section 2(b). *See Boeving*, 496 S.W.3d at 504 n.3 (holding that, as respondents to the opponents’ appeal, the petition proponents could assert properly raised and preserved constitutional claims as alternative grounds on which to affirm the circuit court’s judgment). This Court finds no merit in Opponents’ “single subject” claim. Finally, Opponents argue that – if this Court is unable to dispose of this matter before it is too late to remove Amendment 3 from the ballot – this Court should declare section 116.200.1 unconstitutional because it limits a citizen’s right to challenge the legal sufficiency of an initiative petition until “after the secretary of state certifies a petition as sufficient.” Because the circuit court and now this Court were able to reach the merits of Opponents’

claims in Count I and Count II notwithstanding the admittedly tight window created by sections 116.200.1 and 115.125.3, this Court rejects Opponents’ Count III as moot.

I. The Secretary Properly Approved the Form of Amendment 3 Because Nothing in Article III, Section 50 or Section 116.050.2(2) Requires the “Full Text of the Measure” to Include All Statutes That May Later Be Declared Invalid in Whole or in Part Should the Proposed Constitutional Amendment Be Approved by the People

Since 1908, the Missouri Constitution has reserved to the people of this state the power to propose amendments to the constitution by initiative petition. That reservation took its present form with the adoption of the 1945 Constitution and, with one immaterial exception, has remained the same for the last 79 years. In all that time, this Court has decided exactly one case involving a challenge to a proposed amendment on the ground that it failed to include the “full text” of the amendment because it did not identify all existing provisions of the *constitution* with which the proposed amendment was “in direct conflict” or “irreconcilably repugnant.” This Court has **never** held that the “full text” requirement in article III, section 50 requires a proposed amendment to list all *statutes* that might – if the amendment is adopted – be subsequently declared invalid in whole or in part by a court, and the Court declines to invent such a requirement out of whole cloth now.

A. Buchanan Controls

[3] As noted above, this Court has decided only one case under the 1945 Consti-

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tution stating⁹ that the “full text” of a constitutional amendment proposed by initiative petition must identify on each of the petition’s signature pages all articles or sections of the existing constitution that would be repealed should the proposed amendment be adopted by the voters. That case was *Buchanan v. Kirkpatrick*, 615 S.W.2d 6 (Mo. banc 1981), and it rejected that claim. Because *Buchanan* is controlling on the question now before this Court,

9. Because *Buchanan* found no violation of this requirement, it may be a step too far to characterize its analysis and imposition of this requirement a “holding,” and this Court at least once has expressed skepticism that article III, section 50 contains such a requirement. See *Boeving*, 496 S.W.3d at 509 (“Nor is this Court willing to construe article III, section 50, to prohibit voters from approving or rejecting a constitutional amendment proposed by initiative petition simply because the proposed amendment *may* (if and when it goes into operation) be construed to alter or affect the application of a preexisting constitutional provision. By its terms, article III, section 50 is concerned only with what a proposed constitutional amendment ‘contains,’ not with what a proposed constitutional amendment *will or might do* if the voters approve it.”) (emphasis added). *Moore* held this requirement existed and rejected an initiative petition for violating it, but it was decided under the prior constitution and different statutes, and the proposed amendment there explicitly replaced existing constitutional appropriations priorities with its own. *Moore*, 165 S.W.2d at 657. Accordingly, *Moore* is not strictly binding here either. Nevertheless, the relevant provisions are similar enough that *Buchanan*’s reliance on *Moore* was reasonable and – because no party suggests this Court overrule *Buchanan* or the cases on which it relies, and because this Court, like the Court in *Buchanan*, finds no violation of this requirement – the Court will assume *Buchanan*’s discussion correctly articulates the law of this state with respect to this issue. Certainly there can be no argument that this Court has ever held, or even suggested, that article III, section 50 imposes a *more* inclusive repeal disclosure requirement than that articulated in *Buchanan* and, specifically, this Court has never required a proposed con-

stitutional amendment include statutes that may be affected if the proposal is approved.

even though it was nowhere cited or even referred to in the circuit court’s judgment, it is best to set forth in full the Court’s discussion and holding on this issue:

Appellants next contend that the initiative petition did not list all the **constitutional provisions** being changed by the proposed amendment. This procedural requirement originated in *State ex rel. Halliburton v. Roach*, 230 Mo. 408, 130 S.W. 689 (banc 1910).^[10] In the *Hallibur-*

stitutional amendment include statutes that may be affected if the proposal is approved.

10. Though *Buchanan*’s reliance on *Moore* was reasonable, its reliance on *Halliburton* was manifestly less so. The overriding and controlling issue in *Halliburton* was whether the initiative proposed a constitutional amendment or a statute. *Halliburton*, 130 S.W. at 694. Given our century-plus experience with the initiative process during which many dozens of proposed statutes or constitutional amendments have been submitted to the voters and many dozens more have been circulated but failed to secure enough signatures, it may be difficult to imagine the degree of judicial suspicion (if not hostility) surrounding this process in the years immediately following the 1908 amendment adding the initiative process to the 1875 Constitution. That is the context in which *Halliburton* was decided, and the outcome of that case turned on the Court’s conclusion that the proposal – although by its own terms denominated a constitutional amendment – was in fact a statutory proposal and rejected the petitions on that basis. *Id.* (“The petitions themselves as presented to the respondent [Secretary of State] clearly indicate that the so-called constitutional amendment is nothing more nor less than a temporary legislative act.”). No one argued the petitions should be rejected because they failed to identify existing constitutional provisions that would be repealed. Rather, in support of its conclusion that the petitions proposed legislative acts and not constitutional amendments, the Court noted the constitution already had a provision thoroughly addressing the process for redrawing senatorial district lines. The Court reasoned, if the petitions really were constitutional amendments, then they must be seeking to change or repeal the existing redistricting

ton opinion, Judge Fox writing for the Court stated,

If (an amendment is) submitted through the initiative, manifestly that provision as contained in the initiative and referendum amendment that 'the petition shall include the full text of the measure so proposed' must be complied with. In other words, if it is truly an amendment to the Constitution, the full text of the amendment **and what provision of the Constitution it undertakes to amend** must be embraced in the petition.

230 Mo. at 436-37, 130 S.W. at 695, (emphasis added).

In *Moore v. Brown*, 350 Mo. 256, 165 S.W.2d 657 (banc 1942), this Court inter-

provision in the constitution. *Id.* at 695. Because the petitions made no mention of that existing provision, the Court held the petitions' true character was revealed because it proposed legislative acts for the one-time drawing of district lines and not constitutional amendments changing for the future the procedures used to draw those lines. *Id.* ("If this is the purpose, and beyond dispute it is, then in our opinion it must logically follow that the so-called proposed constitutional amendment is not an amendment to the Constitution within the purview of the provisions of the initiative and referendum provision in the Constitution, and deals with a subject that is entirely foreign to the subject of an amendment to the provision of the Constitution which treats of the matter of dividing the senatorial districts in this state.").

11. *Moore* misread *Halliburton* when it stated: "On this [implied repeal disclosure] theory the [*Halliburton*] decision held the initiative petitions were legally insufficient because they failed to disclose that Sec. 7 as well as Sec. 11 of Art. IV [of the 1875 Constitution] was being amended." *Moore*, 165 S.W.2d at 660. Just the opposite was true. Because there was nothing in the *Halliburton* petitions that would have altered or invalidated those existing provisions of the constitution, *Halliburton* holds the petitions proposed only statutes (setting out the lines for a one-time redistricting) and not constitutional amendments (changing for all future redistricting efforts the constitutional process for drawing such

preted the *Halliburton* requirement^[11] as follows:

We have just indicated the views that existing constitutional provisions may be amended or repealed by implication through an initiative amendment. But in any case such repeals are not favored, and there must be irreconcilable repugnance between the two All the more should this be true when such repugnancy must be pointed out in the abstract, and not in a pending controversy based on facts. Time alone can ferret out all the consequential and remote conflicts between statutes or constitutional provisions in all their implications. **We**

lines), and rejected the petitions on that basis alone. *Halliburton*, 130 S.W. at 695. In addition to overstating what *Halliburton* did and did not decide, *Moore* candidly "concede[d] the *Halliburton* case went to the verge of construction in giving Sec. 12287 [i.e., in *Halliburton*, a statute and not the constitution was the source of the "full and correct . . . text of the measure" requirement] the meaning it did." *Moore*, 165 S.W.2d at 663. The Court went on to say that it would "abide by the [*Halliburton*] ruling, although the constitutions of several states contain [similar] provision[s], . . . and we have not found in any one of them a decision like the *Halliburton* case, construing such language as requiring the measure to specify the Articles and Sections which will be changed by it." *Id.* Again, as noted above, the correctness of *Halliburton*, *Moore*, or, ultimately, *Buchanan* are not before us. There is no conceivable argument that article III, section 50 requires **more** than *Buchanan* suggests, i.e., that it requires a proposed constitutional amendment to include all existing constitutional provisions **and statutes** with which the proposal is in "direct conflict" or is "irreconcilably repugnant," and there is no need to re-examine *Buchanan's* statement that article III, section 50 requires the "full text" of the proposal to include all existing constitutional provisions in direct conflict because Amendment 3 does not violate it.