

IN THE CIRCUIT COURT FOR THE COUNTY OF COLE  
STATE OF MISSOURI

STATE SENATOR MICHAEL MOON, )  
in his individual capacity as a taxpayer, and )  
in his official capacity )  
as a State Senator, )

STATE REPRESENTATIVE BRYANT WOLFIN )  
in his individual capacity as a taxpayer, and )  
in his official capacity )  
as a State Representative, )

RON CALZONE, a taxpayer, )  
 )  
Plaintiffs, )

v. )

Case No.

STATE OF MISSOURI, )

Serve: Missouri Attorney General's Office )  
207 West High Street )  
Jefferson City, MO 65102 )

Division:

GOVERNOR MICHAEL KEHOE, )

Serve: Office of the Governor )  
State Capitol Building, Room 218 )  
201 West. Capitol Ave. )  
Jefferson City, MO 65102 )

ATTORNEY GENERAL ANDREW BAILEY, )

Serve: Missouri Attorney General's Office )  
207 West High Street )  
Jefferson City, MO 65102 )

Defendants. )

**PETITION FOR EQUITABLE RELIEF**  
**(1) DECLARING THAT THE PASSAGE OF SENATE BILL 3,**  
**INTRODUCED IN THE FIRST EXTRAORDINARY SESSION OF THE FIRST**  
**REGULAR SESSION OF THE 103<sup>RD</sup> GENERAL ASSEMBLY,**  
**WAS AND IS UNCONSTITUTIONAL, AND**  
**(2) ENJOINING THE ENFORCEMENT OF SENATE BILL 3**

Plaintiffs State Senator Michael Moon, State Representative Bryant Wolfen, and Ron Calzone state for their Petition for Equitable Relief (1) Declaring that the Passage of Senate Bill 3, Introduced in the First Extraordinary Session of the 103<sup>rd</sup> Missouri General Assembly, was and is Unconstitutional, and (2) Enjoining that Bill's Enforcement.

## INTRODUCTION

### History of Passage of Senate Bill 3, Real World Purpose of the Bill

1. On May 27, 2025, the Governor called the 103<sup>rd</sup> Missouri General Assembly into a First Extraordinary Session for the limited purposes of, among other things (using his numbering):
  1. To enact legislation establishing an income tax deduction for the insurance policy deductible incurred by homeowners and renters whose primary residence is in an area that is included in a request for presidential disaster declaration filed by the Governor...
  6. To enact legislation modifying tax credits for sporting events.
  7. To enact legislation establishing economic development incentives for athletic and entertainment facility projects of a professional sports franchise that is a member of Major League Baseball or the National Football League.
2. In the "Whereas" clauses of his proclamation the Governor stated, among other things:

WHEREAS, the presence of professional sports teams, modern stadiums, and major sporting events significantly contribute to the cultural identity and pride of the State of Missouri.
3. Before the session the owners of the Kansas City Chiefs and Kansas City Royals had threatened to leave Missouri for Kansas unless the state and local governments provided them subsidies for their stadiums.
4. During the Extraordinary Session, June 2-11, 2025, the General Assembly passed Senate Bill 3, ("the Bill"). See Ex. 1, Senate Bill 3 as Truly Agreed to and Finally Passed ("TAFP").

5. The governor promptly signed the Bill.
6. Unless declared unconstitutional and/or enjoined, the Bill will be effective on August 28, 2025.
7. As introduced, the title of the Bill was:
 

AN ACT To repeal sections 67.3000 and 67.3005, RSMo, and to enact in lieu thereof **four** new sections relating to taxation. (Emphasis added).
8. As introduced, Ex. 2, the Bill:
  - a. § 67.3000, p. 1: Amends of a 2013 program giving tax credits for tickets sold for an “amateur, collegiate, or Olympic sporting event that is competitively bid or is awarded by a side selection organization,” § 67.3000.1(13), p. 4, l. 92
  - b. § 100.240, p. 12, l. 20: Subsidies for stadiums, (publicly owned in Kansas City), plus subsidies for the privately owned facilities of the franchise such as the team headquarters, § 100.240.3(1), p. 12, l. 22.
  - c. § 135.445, p. 18: Gives tax credits for property tax relief to homeowner disaster victims.
9. As Truly Agreed to and Finally Passed the title of the Bill was modified:
 

AN ACT To repeal sections 67.3000 and 67.3005, RSMo. and to enact in lieu thereof **five** new sections relating to taxation, **with a severability clause**. (Changes in bold).
10. As Truly Agreed to and Finally Passed, Ex. 1, the Bill was divided into Sections A and B.
11. In addition to the three provisions described above, Section A of this TAFP version of the Bill also includes the following two provisions:
  - a. § 100.240.8, p. 18: Allows holders of elective office to use campaign funds to pay attorneys to defend legal challenges brought against them related to the stadium

subsidies, which would otherwise be a forbidden use of campaign funds for a personal purpose.

- b. § 137.1120, p. 21: Calls for some but not all counties to conduct votes on the adoption of the tax credits for property tax relief (with no requirement of a disaster to obtain the tax credits).
12. Section B of the Bill as Truly Agreed to and Finally Passed, p. 35, provides that if any provision mentioned above are held unconstitutional that provision shall be severed and the rest “shall not be affected thereby.”
13. The primary real-world purpose of the Bill was and is to give life to the Governor’s proclamation by meeting the demands for taxpayer subsidies brought by the owners of the Kansas City Chiefs and the Kansas City Royals.<sup>1</sup>

### **UNCONSTITUTIONAL**

14. The bill is unconstitutional because it violates the following Missouri constitutional provisions:
- a. Grant of public money to private persons,
  - b. Special law,
  - c. Multiple subjects,
  - d. Title not clear, and
  - e. Change of original purpose.

### **Who Pays Mahomes?**

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<sup>1</sup> No one will ever know whether the owners were bluffing because the legislature caved to the owners’ demands (albeit in Plaintiffs’ view, unconstitutionally).

15. It turns out that Kansas City Chiefs quarterback, Patrick Mahomes, this era's greatest professional football player, and a man who with his teammates has brought honor, glory and "pride" to the State of Missouri by winning three Super Bowls, 2020, 2023 and 2024, is working under a 10-year contract for \$450 million, or \$45 million per year.
16. Under § 100.240 the Chiefs would receive in the range of, and likely in excess of, \$1 billion in state subsidies over 30 years, or about \$33 million per year.
17. It thus appears that what is really going on is that the Missouri legislature has passed a law under which, year by year, the taxpayers are paying about 73% of Mahomes's salary.

### **JURISDICTION, VENUE, RELIEF AVAILABLE, NO SOVEREIGN IMMUNITY**

#### **Jurisdiction**

18. This action challenges the constitutionality of the Bill. This circuit court has "original jurisdiction over all cases and matters, civil and criminal," Mo. Con. Art. V § 14, and therefore this court has jurisdiction over this matter.

#### **Venue**

19. One of the Defendants, the Governor, resides in this County. Therefore, for this non-tort case, venue is proper in this County pursuant to RSMo. 508.010.2(1), which grants venue in a multi-defendant case in any county where at least one Defendant resides.

#### **Injunctive Relief Available**

20. Injunctive relief is available under Rule 92 and RSMo. 526.030 because:
  - a. An adequate remedy "cannot be afforded by an action for damages," and
  - b. In a ruling for Plaintiffs the court will "prevent doing of a legal wrong."
21. A suit for damages for money will not provide relief for the constitutional infirmities of the passage of the Bill.

### Declaratory Relief Available

22. Declaratory relief is available under Rule 87 and RSMo. 527.010 because this court has the “power to declare rights, status, and other legal relations.”

### State has No Sovereign Immunity for Equitable Remedies

23. Plaintiffs seek only equitable relief and do not seek damages. Therefore, the State does not have sovereign immunity from this suit. In *State Conf. of Nat'l Ass'n for Advancement of Colored People v. State*, 563 S.W.3d 138, 146–47 (Mo. Ct. App. 2018) the court stated:

The sovereign immunity restored by section 537.600 “is immunity ‘from liability and suit for compensatory damages for negligent acts or omissions,’ *not* immunity from claims for equitable relief.” *Wyman v. Mo. Dep't of Mental Health*, 376 S.W.3d 16, 23 (Mo. App. W.D. 2012). “An injunction and declaratory judgment are equitable remedies.” *Ballard v. City of Creve Coeur*, 419 S.W.3d 109, 117 (Mo. App. E.D. 2013).

See also *Weinschenk v. State*, 203 S.W.3d 201, 205 (Mo. banc 2006) where in a challenge to a statute the Missouri Supreme Court upheld injunctive relief against the State.

24. Plaintiffs do seek attorney’s fees for the declaratory judgment count, (and see below regarding sovereign immunity).

## PARTIES

### Plaintiffs

25. State Senator Michael Moon is a taxpayer.
26. Senator Moon is also the duly elected and serving State Senator from Senate District 29.
27. On June 5, 2025, Senator Moon submitted to Kristina Martin, Secretary of the Senate, a protest letter regarding the bill, Senate Journal p. 28.
28. Senator Moon voted against the Bill.

29. On June 12, 2025, after final passage of the Bill, Senator Moon submitted a constitutional objection letter outlining some of the constitutional infirmities of the bill, Senate Journal p. 32, Ex.3.
30. Senator Moon is an interested party in this litigation because in the passage of the Bill his own legislative body violated the constitution.
31. State Representative Bryant Wolfen is a taxpayer.
32. Representative Wolfen is also the duly elected and serving State Representative from House District 145.
33. On the night of the passage of Senate Bill 3 but before the final House vote Representative Wolfen gathered 13 signatures of fellow House members on a letter stating that the Bill was unconstitutional, Ex. 4. Representative Wolfen did not finish getting signatures before the bill was signed by the speaker.
34. The next morning, he attempted to submit the letter to the House Journal, but the keeper of the Journal informed him that the Journal had already been closed.
35. On the prior evening Representative Wolfen had voted against the Bill.
36. Representative Wolfen is an interested party in this litigation because the passage of the Bill, by his own legislative body, violated the Missouri Constitution.
37. Ron Calzone is a Missouri citizen, taxpayer, and resident of Maries County.
38. According to the Maries County website, the population of Maries County in 2023 was 8,430.
39. The City of Vienna is the county seat of Maries County.
40. According to the City of Vienna website, the population of the City of Vienna in 2023 was 576.

41. A combination of Maries County’s population and the City of Vienna’s population does not meet any of the 97 definitions in the Bill which make a County eligible for the Bill’s tax credit for property taxes either as a five percent or as a zero percent county, and thus Maries County is not eligible to vote.
42. Maries County is therefore ineligible for the benefits offered by that part of the Bill.
43. Calzone is a taxpayer.
44. Calzone is also therefore an interested party in the litigation based on Maries County being ineligible for tax credits for property taxes.

### **Defendants**

45. The State of Missouri is a properly created and functioning state. The State, acting through its elected officials, officers, agencies, and employees, intends to enforce the provisions of the bill.
46. Governor Michael Kehoe is the lawfully elected and serving Article IV Governor of Missouri. Pursuant to Art III § 31, he signed the Bill into law. He is responsible to “take care that the laws are distributed and faithfully executed,” Mo. Const. Art IV § 2.
47. Attorney General Andrew Bailey is the lawfully elected and serving Article IV § 12 Attorney General of Missouri. See Rule 87.04 directing that the Attorney General be served in a case challenging the constitutionality of a statute, and that in the suit he is “entitled to be heard.” See also RSMo. 27.060, the Attorney General “may appear” in this matter because the state’s “interests are involved.”

### **STANDING**

48. The burden to establish standing lies with the party seeking relief. *Wilson v. City of St. Louis*, 662 S.W.3d 749, 753 (Mo. 2023).

49. So long as one of the plaintiffs establishes standing, the Court may consider the claim.

*Wilson v. City of St. Louis*, 662 S.W.3d 749, 754 (Mo. 2023)

50. § 100.240.2, p. 12 of the Bill as Truly Agreed to and Finally Passed states:

The state of Missouri, acting through the department and the office of administration, may, upon such terms and with reasonable consideration as it may determine, subject to appropriation, **expend funds** for the purpose of aiding and cooperating in the planning, undertaking, financing, or carrying out of an athletic and entertainment facility project for which application is made to the department and approved by the director and the commissioner. (Emphasis added).

51. That section authorizes an illegal expenditure of state funds and thereby confers taxpayer standing on all three Plaintiffs.

52. The sports ticket tax credit portion § 67.3000.4(2) and § 67.3000.4(3) of the Bill as Truly Agreed to and Finally Passed includes the following two statements, respectively:

Notwithstanding any provision of law to the contrary, this may include a refund issued in advance of the close of the tax period for which the credits applies, p. 7, l. 171

Notwithstanding any provision of law to the contrary, tax credits authorized by this section may be refunded at any time following issuance, even prior to the close of the tax period for which the credits were issued, p. 7, l. 183.

53. Those statements also authorize a direct expenditure of state funds because the state treasury is authorized to deliver funds to persons who are turning in their tax credits. See *Curchin v. Missouri Indus. Dev. Bd.*, 722 S.W.2d 930, 933 (Mo. 1987):

This tax credit is as much a grant of public money or property and is as much a drain on the state's coffers as would be an outright payment by the state to the bondholder upon default. There is no difference between the state granting a tax credit and foregoing the collection of the tax and the state making an outright payment to the bondholder from revenues already collected.

54. Tax credits also affect taxpayers because reductions in revenue due to tax credits incrementally increase the burden on all other taxpayers to make up the slack.

Alternatively, loss of tax revenue would diminish government services provided to the taxpayers.

55. There is an active market in tax credits. They are routinely sold by those to whom they have been issued but who have insufficient income to offset them to those who do have sufficient income to offset them. See e.g. RSMo 135.1150 and 620.1039 specifically allowing such sales, and *Manzara v. State*, 343 S.W.3d 656, 658 (Mo. 2011) referencing the sale of tax credits.
56. Sales of tax credits take place at a roughly 10% discount. *Manzara v. State*, 343 S.W.3d 656, 667 (Mo. 2011), Wolff Concurring, citing to: Paul Rothstein & Nathan Wineinger, *Transferable Tax Credits in Missouri: An Analytical Review*, 3 Fed. Res. Bank of St. Louis Regional Econ. Dev., no. 2, at 53, 66–67 (2007) (Table 5)
57. Additionally, the Fiscal Note to Senate Bill 3, Ex 5, states that the Bill will involve direct expenditure of state funds. See Fiscal Note p. 10 stating that the Department of Revenue is expected to expend \$10,000 for creation of a form, employ additional Associate Customer Service Representatives, and pay \$175,000 for computer programming.
58. But see *Manzara v. State*, 343 S.W.3d 656, 660 (Mo. 2011):
 

Lowering tax liability by [tax credits] does not move money out of the public treasury; it leaves it in private hands.
59. In the alternative, *Manzara* is wrongly decided, see *Manzara v. State*, 343 S.W.3d 656, 669 (Mo. 2011), Wolff, concurring:
 

The genius of those who enact transferable tax credit programs is that tax credits allow governments to bestow financial largess on well-connected recipients with little or no public scrutiny and—with this Court's indulgence—no judicial scrutiny.
60. Denying taxpayer standing to taxpayers who challenge tax credits, thereby ignoring the logic of *Curchin*, should be revisited because it is an abdication by the courts of their duty

to serve as the constitution police, as well as a failure by the courts to act as a proper check on the other two branches.

61. Denying taxpayer standing in these circumstances would also violate Art. I § 3 because it would prevent the people from regulating the internal government:

That the people of this state have the inherent, sole and exclusive right to regulate the internal government.

62. Denying taxpayer standing in these circumstances would also violate Art. V § 10 because it would prevent this court from judging:

The validity...of a statute... of this state.

63. In *Kinder v. Holden*, 92 S.W.3d 793, 802–03 (Mo. Ct. App. 2002) the court stated:

Reduced to its essence, standing roughly means that the parties seeking relief must have some personal interest at stake in the dispute, even if that interest is attenuated, slight or remote. (Citations and internal quotation marks omitted).

...

The private injury that invests standing to a taxpayer is not a purely personal grievance in which other taxpayers have no interest, rather it is an injury shared by the public. *Querry v. State Highway & Transp. Comm'n*, 60 S.W.3d 630, 635 (Mo.App.2001).

The allegations in the petition concerning the direct expenditure of state funds are sufficient to confer taxpayer standing to plaintiffs.

See also, *Lebeau v. Commissioners of Franklin Cnty., Missouri*, 422 S.W.3d 284, 288

(Mo. 2014):

This Court has repeatedly held that taxpayers do, in fact, have a legally protectable interest in the proper use and expenditure of tax dollars. *See, e.g., E. Mo. Laborers Dist. Council v. St. Louis Cnty.*, 781 S.W.2d 43, 46 (Mo. banc 1989).

64. Each Plaintiff taxpayer has standing because of the above cited section creating an expenditure from the treasury.

65. See also, Justice Antonin Scalia, "The Doctrine of Standing as an Essential Element of the Separation of Powers," *Suffolk University Law Review*, 1983, where he summarized standing law in four words:

What's it to you?

66. For all three Plaintiffs in their role as citizens the Bill is much to them. They are interested in the government following the provisions of the state's constitution to the letter, for the sake of good government and the rule of law.

67. In the alternative, Senator Moon and Representative Wolfen have legislative standing.

68. As legislators who challenged the unconstitutional aspects of the Bill by written objection and voted against the bill, they are invested in challenging the bad conduct of the legislature in passing the Bill. See 92 *Miss. Law Journal* 417, 436 Comment, Channing J. Curtis (2023), (distinguishing very limited federal standing for legislators in a presidential line item veto challenge case, *Raines v. Byrd*, 521 U.S. 811 (1997), from state law standing for legislators as Plaintiffs, in which courts "weigh various factors.")

69. Because Senator Moon and Representative Wolfen were forced to vote on a bill with multiple subjects, the effectiveness of their vote was diminished. See *Campbell v. White*, 856 P.2d 255, 268 (1993), in which the Asst. Minority Leader of the Oklahoma House sued over a multi-subject issue and the court granted relief prospectively. In dissent, opposing the outcome on the merits but supporting standing for the Plaintiff, Justices Opala and Lavender wrote: "Standing is implicit in any legislator's complaint when a bill is challenged for any § 56 mis-combination of subjects," see § 56 of the Oklahoma constitution, single subject constitutional requirement. See also *Silver v. Pataki*, 755 N.E.2d 842, 846-47 (2001):

We reject the notion that plaintiff's functional responsibilities as a legislator are at an end once a bill is voted upon and leaves the Assembly. Such a narrow view could render a legislator's vote meaningless and unnecessarily dilute one's legislative responsibilities. A legislator surely would have the capacity to sue if prevented from casting a meaningful vote on legislation at the outset. We see no principled basis for distinguishing between a legislator's pre-vote and post-vote interests in the validity and effectiveness of that vote. A procedure that nullifies a legislator's vote is as harmful as one that precludes it. In each case, the legislator and the thousands of New Yorkers he or she represents are unlawfully precluded from participating in the governmental process. Thus, Mr. Silver does have capacity to sue as a Member of the Assembly. (Citations omitted).

70. The enforcement of the constitutional requirements on the legislature, even as raised by a legislator, is not a political question, because the questions raised herein are not delegated to a political branch, *Bennett v. Mallinckrodt, Inc.*, 698 S.W.2d 854, 864 (Mo.App.1985).
71. To the contrary, they are limitations on the actions of a political branch.
72. See, to the contrary, *Kinder v. Holden*, 92 S.W.3d 793, 804, n. 5 (Mo. Ct. App. 2002):
- It appears from the holdings in *Raines v. Byrd*, 521 U.S. 811, 117 S.Ct. 2312 (1997), and *State ex rel. Mathewson v. Bd. of Election Comm'rs of St. Louis County*, 841 S.W.2d 633 (Mo. banc 1992), that Senator Kinder and Representative Troupe would not have had standing if they had filed the petition in only their official capacities.
73. Nevertheless, *Raines* is distinguishable as stated above, and *Mathewson* is distinguishable because the State Senator's claim therein related to what would happen in an election which had not yet happened, and therefore the dispute was not yet ripe.

### STANDARD

74. In *Weinschenk v. State*, 203 S.W.3d 201, 210 (Mo. 2006) the court stated:

Whether a statute is unconstitutional is a question of law, the review of which is de novo. *Doe v. Phillips*, 194 S.W.3d 833, 841 (Mo. banc 2006). Because a statute is cloaked in a presumption of constitutionality, an appellate court may find the statute unconstitutional only if it clearly contravenes a specific constitutional provision. *State v. Kinder*, 89 S.W.3d 454, 459 (Mo. banc 2002). "Nonetheless, if a statute conflicts with a constitutional provision or provisions, this Court must hold the statute invalid." *State v. Kinder*, 89 S.W.3d 454, 459 (Mo. banc 2002).

Attacks against legislative action founded on constitutionally imposed procedural limitations are not favored. *City of St. Louis v. State*, 682 S.W.3d 387, 396 (Mo. 2024), (Citations and internal quotation marks omitted).

75. The party challenging a statute has the burden of proving it clearly and undoubtedly violates constitutional limitations. *Wilson v. City of St. Louis*, 662 S.W.3d 749, 754–55 (Mo. 2023).
76. It is not within the Court's province to “question the wisdom, social desirability, or economic policy underlying a statute as these are matters for the legislature's determination. *Turner v. Sch. Dist. of Clayton*, 318 S.W.3d 660, 668 (Mo. 2010).

### HOW THE STADIUM SUBSIDIES WORK

77. The Bill contains two types of subsidies for professional sports teams, direct subsidies, and tax credits.

#### Direct Subsidies for Stadiums

78. The direct subsidies are managed by the state’s “Department of Economic Development,” § 100.240.2, p. 12, l. 4, and § 100.240.4, p. 15, l. 100.
79. An “applicant” submits an application for a subsidy which includes the “baseline year tax revenues,” § 100.240.4, p. 15, l. 100.
80. “Applicant” is not defined, but “professional sports franchise” is defined as being a sports team which is a member of Major League Baseball or the National Football League. In Missouri at the present time, this includes only the Chiefs, the Royals, and the St. Louis Cardinals, § 100.240.3(9), p. 14, l. 9.
81. The baseline year is the year before the applicant files the application. § 100.240.3(2), p. 13, l. 37.
82. An applicant must be working on a stadium project costing at least \$500 million, § 100.240.3(10), p. 14, l. 68.

83. Only stadiums holding 30,000 fans count, § 100.240.3(1), which at the present time in Missouri are only the stadiums where the Chiefs, Royals and Cardinals play their games.
84. The baseline year tax revenues are the “state tax revenues derived directly from the operations of the athletic and entertainment facility of the professional sports franchise,” § 100.240.3(3), p. 13, l. 40.
85. The state tax revenues are the sum of the state sales tax, withholding tax and entertainers state income tax generated at the stadium, § 100.240.3(12), p. 14, l. 84.
86. The State then “may, upon such terms and reasonable conditions as it may determine, subject to appropriation, expend funds for the purpose of aiding and cooperating in the planning, undertaking, financing, or carrying out of an athletic facility project for which application is made,” § 100.240.2, p. 12, l. 3.
87. The subsidies are not just for the stadiums themselves (owned in Kansas City by the Jackson County Sports Authority, a government entity), but also the “sports franchise’s headquarters and training facility, regardless of whether they are co-located in or adjacent to the stadium, but still located within the state.”
88. Those facilities may be privately owned.
89. The above paragraph is a direct subsidy to the teams, assuming the teams will be the applicants, or that the Jackson County Sports Authority would be the applicant, but in that case, the Jackson County Sports Authority is merely a proxy for the Chiefs and Royals, for they play in facilities owned by the Jackson County Sports Authority on favorable lease terms.
90. The annual expenditure is to be “no greater than the baseline year tax revenue,” § 100.240.5, p. 15, l. 114.

91. No General Assembly may bind a future General Assembly, see Art III, § 1 vesting the legislative power in the General Assembly and containing no provision for one General Assembly to bind another General Assembly.
92. Reasonable financial assumptions indicate that the baseline year for Royals and Chiefs will each be in the range of \$40 million.
93. The subsidies are not to exceed 30 years, § 100.240.5(1), p. 16, l. 122.
94. The bill anticipates that the teams will issue bonds for stadium projects, and these appropriations will go to pay off the bonds, § 100.240.5(3), p. 16, l. 129.
95. If the teams move out of state, the deal is canceled, § 100.240.5(5), p. 16, l. 137.
96. This entire portion of the Bill is merely aspirational, in that if a future General Assembly does not appropriate the subsidies or wishes to change the time frame, the subsidies may then be changed or eliminated.

#### **Tax Credits for Stadium (“Infrastructure Development Fund”) Improvements**

97. The Bill also allows any taxpayer, including a charitable organization exempt from federal income tax, to receive a tax credit for 50% of the funds put into an “infrastructure development fund” with a cap of 10% of the private investment or \$50 million, and a three year limit on distributions,
98. § 100.240.3(9), p. 14, l. 9.
99. No rational person, taxpayer or organization would contribute funds to a stadium project while getting only 50 cents back, except a team occupying the stadium which would thus be the team receiving the revenue from the games held at the stadium.

#### **GRANT OF PUBLIC MONEY TO PRIVATE PERSONS**

100. Art III § 38(a) states:

The general assembly shall have no power to grant public money or property, or lend or authorize the lending of public credit, to any private person, association or corporation, excepting aid in public calamity, and general laws providing for pensions for the blind, for old age assistance, for aid to dependent or crippled children or the blind, for direct relief, for adjusted compensation, bonus or rehabilitation for discharged members of the armed services of the United States who were bona fide residents of this state during their service, and for the rehabilitation of other persons. Money or property may also be received from the United States and be redistributed together with public money of this state for any public purpose designated by the United States.

101. Art III § 39 states in relevant part:

The general assembly shall not have power:

- (1) To give or lend or to authorize the giving or lending of the credit of the state in aid or to any person, association, municipal or other corporation;
- (2) To pledge the credit of the state for the payment of the liabilities, present or prospective, of any individual, association, municipal or other corporation;
- (4) To pay or to authorize the payment of any claim against the state or any county or municipal corporation of the state under any agreement or contract made without express authority of law;
- (5) To release or extinguish or to authorize the releasing or extinguishing, in whole or in part, without consideration, the indebtedness, liability or obligation of any corporation or individual due this state or any county or municipal corporation;
- (7) To act, when convened in extra session by the governor, upon subjects other than those specially designated in the proclamation calling said session or recommended by special message to the general assembly after the convening of an extra session;

102. Art X, § 10 states in relevant part:

Taxes may be levied and collected for public purposes only.

103. The above three constitutional sections limit government on the income side and on the expenditure side to public purposes.

104. The appropriations described in the bill are a direct gift or bribe to the owners of the Chiefs and the Royals to stay in Missouri.

105. These appropriations are precisely consistent with the Governor's proclamation calling the Extraordinary Session.
106. The appropriations described in the bill might also be direct gifts or bribes to the owners of the Cardinals, depending on whether the Cardinals undertake a stadium renovation project in St. Louis.
107. Entertainment is a wholly private business in which providers sell tickets, advertising and merchandise, compete with one another vigorously for the public's entertainment dollar, all for the purpose of making a profit.
108. Entertainment is not a recognized object of government, nor a public purpose, nor does it directly promote the welfare of the community.
109. Further, many Missouri citizens have no interest in either professional football or professional baseball. One of the purposes of these constitutional provisions is to insure that members of the public will know how their legislators voted.
110. Then, in this case, those who are not interested in pro ball will have enough information to know to vote against those legislators in the next election.
111. Just as those who find burlesque shows immoral, those who find pro ball uninteresting should not have to subsidize the citizens who are delighted to pay for such amusements.
112. The tax credits in the bill are a grant of public money or property, in the form of tax credits, to private persons and/or corporations, not within any listed exception.
113. This flaw in the Bill makes the Bill unconstitutional.

#### **SPECIAL LAW**

114. Art I § 2 states, in part:

All persons are created equal and are entitled to equal rights and opportunity under law.

115. The first sentence of Art III § 40 reads:

The general assembly shall not pass any local or special law.

116. After a long list of prohibited types of laws, not relevant here, the last sentence of Art III § 40 reads:

Where a general law can be made applicable, and whether a general law could have been made applicable is a judicial question to be judicially determined without regard to any legislative assertion on that subject.

117. The county voting of tax credits for payment of property taxes portion of the Bill, Ex. 1, p. 21 § 137.1120 violates Art. III § 40 because it is a special law.

118. That portion of the Bill divides counties into:

- a. “Five percent counties,” p. 21,
- b. “Zero percent counties,” p. 31, and
- c. By omission, counties not eligible to be either five percent or zero percent counties.

119. Five percent counties have a higher limit on the increase in the tax credits for property tax relief than zero percent counties, see definition of “eligible credit amount,” § 137.1120.1(3), p. 30.

120. The definition of “five percent counties,” § 137.1120.1(2) contains 75 separate definitions—Sections (a) through (www)—described in nine pages of the Bill (pp. 21-30), each definition referencing the number of inhabitants of the county and the number of inhabitants of the county seat.

121. Plaintiffs believe the list’s order comes from individual Senate Districts, because a list of counties included in the Five percent and zero percent categories was distributed the night of the vote, Ex. 6, and that document lists the counties by senate district.

122. The definition of “zero percent counties,” § 137.1120.1(7) contains 22 separate definitions, (a) to (v), described over three plus pages, pp. 31-34, each definition referencing the number of inhabitants of the county and the number of inhabitants of the county seat.
123. Some Missouri counties are eligible and some are not.
124. The disparate treatment of counties which are “five percent counties,” “zero percent counties” and wholly ineligible counties has no rational basis.
125. Missouri has 114 counties, and 97 fall within the definitions of the five percent or zero percent counties for purposes of being able to vote on tax credits for property taxes.
126. That leaves 17 counties which are not eligible to take such votes and whose citizens are therefore not eligible to receive the relief offered to the citizens of the other 97 counties.
127. Here the classifications are so narrow that as a practical matter others could not fall into the same classifications.
128. The population differences which keep counties in versus out are miniscule, and cannot be justified by any basis at all, much less a rational one.
129. As stated above Maries County, where Plaintiff Calzone resides, is not on the list and is therefore a non-eligible county.

130. Art III § 42 offers a safe harbor for a special law:

No local or special law shall be passed unless a notice, setting forth the intention to apply therefor and the substance of the contemplated law, shall have been published in the locality where the matter or thing to be affected is situated at least thirty days prior to the introduction of the bill into the general assembly and in the manner provided by law. Proof of publication shall be filed with the general assembly before the act shall be passed and the notice shall be recited in the act.

131. In this case no such notice was publicized, no proof of publication was filed, and no such notice was recited in the act.

132. No such notice could have been published because the Extraordinary Session was called by the governor's proclamation on May 27, 2025, and lasted from June 2-11, 2025, for a total of 15 days, and therefore there could not have been a notice 30 days ahead.
133. Also, the Bill contains no citation to such a notice.
134. The Art III § 42 the work around did not occur and cannot rescue the Bill.
135. The Bill is a special law and is therefore unconstitutional.

### **MULTIPLE SUBJECTS**

136. Art III § 23 of the Missouri Constitution states:
- No bill shall contain more than one subject which shall be clearly expressed in its title, except bills enacted under the third exception in section 37 of this article and general appropriation bills, which may embrace the various subjects and accounts for which moneys are appropriated.
137. The Bill as Truly Agreed to and Finally Passed:
- a. Tinkers with an existing tax credit program for ticket sales at sporting events,
  - b. Provides tax credits to owners of sports teams and stadiums, plus their headquarters and other infrastructure ,
  - c. Allows the use of campaign funds by elected officials to pay legal fees to defend the tax credits to owners of sports teams and stadiums,
  - d. Provides tax credits for property taxes related to disaster relief,
  - e. Calls for some counties but not all counties to vote on tax credits for property taxes (without regard to disasters), and
  - f. Includes a severability clause.
138. While all but the campaign finance provision and the severability clause involve tax credits, all of these individual topics differ from one another significantly.
139. The campaign finance provision has nothing to do with "taxation."

140. The stadium provisions subsidize business enterprises; the tax credits for disaster relief and for property tax relief subsidize homeowners.
141. The former showers beneficence on billionaires; the latter showers the beneficence on all homeowners.
142. The former would likely be popular with rent seekers within the business class but infuriating to the middle class; the latter would likely be inconsequential to rent seekers within the business class but joyous to the normal homeowners.
143. The former is a gamble by the legislators that the political benefit of keeping the major league teams in Missouri will be greater than the political drawback of making all taxpayers pay for teams and stadiums which are only loved by football and baseball fans; the latter are merely popular, although roundabout, reductions in taxes.
144. The former will likely produce political contributions in vast sums from those able to make such contributions; the latter will likely produce political benefit but likely no political contributions.
145. Section 100.240.8 relates to the use of campaign funds for legal fees and has nothing to do with taxation, economic development, or anything else one might find to be the subject of the Bill.
146. Under *Hammerschmidt v. Boone Cnty.*, 877 S.W.2d 98, 103 (Mo. 1994):
- When the Court concludes that a bill contains more than one subject, the entire bill is unconstitutional unless the Court is **convinced beyond reasonable doubt that one of the bill's multiple subjects is its original, controlling purpose and that the other subject is not.** In reaching this determination, the Court will consider whether the [additional subject] ... is **essential to the efficacy** of the ... [bill], whether it is a provision without which the ... [bill] would be incomplete and unworkable, and whether the provision is one without which the ... [legislators] would not have adopted the ... [bill]. (Emphasis added).

147. For Senate Bill 3 the court should not be convinced beyond a reasonable doubt that one of the multiple subjects is its “original, controlling purpose” because the opaqueness of the Bill’s title and its topics makes it impossible to discern its “original, controlling purpose.”
148. Further the property tax relief, disaster related or not, is not “essential to the efficacy” of stadium subsidies any more than stadium subsidies are “essential to the efficacy” of property tax relief.
149. The *Legends Bank v. State*, 361 S.W.3d 383, 387 (Mo. 2012) case has become a joke in political circles because, in a bill about printing government documents, the members of the legislature ended up receiving keys to the capitol dome, which had nothing to do with printing, (and also seemed silly). The court struck down the bill. The multiple provisions in Senate Bill 3 remind one of the silliness of the keys to the capitol dome tale.
150. In *Planned Parenthood of St. Louis Region v. Dep't of Soc. Servs., Div. of Med. Servs.*, 602 S.W.3d 201, 211 (Mo. 2020) the court clarified the remedy:
- It is imprecise to say this or that section or phrase in a bill violates the single subject requirement in article III, section 23 of the Missouri Constitution. This requirement applies to entire bills, and a bill either complies or it does not.
151. By the context of that phrase one may discern that the court should look only to the final version of the bill to determine whether it includes multiple subjects.
152. The Bill fails the single subject requirement and is therefore unconstitutional.

### CLEAR TITLE

153. Under Art III § 23 a bill must have a “clear title.” *Calzone v. Interim Comm’r of Dept. of Elementary and Secondary Education*, 584 S.W.3d 310, 322 (Mo. banc 2019).
154. The “clear title” provision is 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 Management Ass'n v. Dir. of Dept. of Natural Resources*, 964 S.W.2d 818, 820 (Mo. banc 1998).

155. The word "taxation" in the title of Senate Bill 3 is as vague as the phrase "public safety."
156. Using the word "taxation" in the title of the Bill was a ruse by the sponsors of the Bill to hide the true nature of the bill, that is, a \$500 million dollar subsidy to billionaire sports team owners, and letting the donors to political campaigns hide their payments of legal fees to defend the subsidies.
157. The word taxation was a way to hide logrolling.
158. A clear title for those parts of the Bill alone perhaps would have read:

Be it enacted by the General Assembly of the State of Missouri, as follows:

A BILL TO PROVIDE \$1.2 BILLION IN SUBSIDIES TO MAJOR SPORTS TEAM OWNERS TO MEET THEIR EXTORTION DEMAND TO KEEP THEM FROM MOVING THEIR TEAMS TO KANSAS!!!! BOOOOOO!!!! GO MISSOURI PRIDE!!!! YAY!!!! AND TO LET HOLDERS OF ELECTIVE OFFICE USE CAMPAIGN FUNDS FOR LEGAL FEES TO DEFEND THE SUBSIDIES.

159. The word "taxation" is underinclusive because it does not encompass the campaign fund provisions in Section 100.240.8, and also because it fails to specifically mention the stadium subsidies or the property tax relief subsidies.
160. The title is overinclusive because it uses the word "taxation," a term that covers the vast canvas of Missouri revenue generation statutes and its policies pursued through tax provisions. "Taxation" is connected to virtually every bill passed, for virtually every bill passed involves funds and the funds for the state come, mostly, from taxation.
161. § 100.240.8, p. 18, in the section related to stadium subsidies states:

Notwithstanding any provision of law to the contrary, contributions received by any committee, as such terms are defined in section 130.011, may be used for any

reasonable legal fees incurred in defense of a legal proceeding arising out of the official duties conducted pursuant to this section by a holder of elective office.

162. § 130.034 of the Missouri statutes related to campaign finance reads:

[Campaign] contributions...received by any committee shall not be converted to any personal use.

163. The preceding section, § 130.033, reads in part:

Any reasonable attorney's fees accrued by a person who is the subject of a complaint which are used in defending such person in any matter resulting in an investigation arising from holding or running for public office may be paid out of such person's committee, as defined in section 130.011.

164. The change in campaign finance laws in the Bill is a significant alteration in Missouri law, for whereas before no campaign funds could be used for personal use and attorney fees are limited to defenses of investigations for violating the campaign finance laws, now such funds can be used in constitutional challenges to a statute.

165. Presumably this change would apply to the Governor and to local officials involved in the fine points of moving the stadium subsidies forward.

166. Failure to include in the title such a dramatic change in the law dooms Senate Bill 3 for lack of a clear title.

167. The Bill violates the clear title requirement of Art III § 23 of the Missouri Constitution and is therefore unconstitutional.

### ORIGINAL PURPOSE

168. Art. III § 21 reads:

The style of the laws of this state shall be: "Be it enacted by the General Assembly of the State of Missouri, as follows." No law shall be passed except by bill, and **no bill shall be so amended in its passage through either house as to change its original purpose**. Bills may originate in either house and may be amended or rejected by the other. Every bill shall be read by title on three different days in each house. (Emphasis added).

169. In *Stroh Brewery Co. v. State*, 954 S.W.2d 323, 326 (Mo. banc 1997), the court said:

The original purpose of a bill must, of course, be measured at the time of the bill's introduction. At this time a bill's sponsor is faced with a **double-edged strategic choice**. A title that is broadly worded as to purpose will accommodate many amendments that may garner sufficient support for the bill's passage.

Alternatively, a title that is more limited as to purpose may protect the bill from undesired amendments, but may lessen the ability of the bill to garner sufficient support for passage. (Emphasis added).

170. Had the Bill's title been limited to the highly controversial topic of "stadium funding," it might have satisfied the original purpose requirement, but then the title would presumably have caused many legislators to be scared of voter retribution, which might have caused the Bill to fail.
171. The double-edged strategic choice issue was in play.
172. At the end of the process the original purpose had changed because of the addition of the campaign finance provision and the voting by county.
173. The bill violates the original purpose clause of Art. III § 21 because the final bill included tax credits (subject to vote) for property taxes, which was not in the original bill, and the Bill is therefore unconstitutional.

### SEVERABILITY

174. The Bill as Truly Agreed to and Finally Passed is divided into Sections A and B.
175. Section A, which continues until the final paragraph of the Bill, contains the provisions for the tax credits for the sports team owners, the voting on property tax relief, etc. as outlined above.
176. Section B of the Bill, consists of the following single final paragraph:
- Section B. If any provision of section A of this act or the application thereof to anyone or to any circumstance SS#2 SCS SB 3 36 is held invalid, the remainder of those sections and the application of such provisions to others or other circumstances shall not be affected thereby. It is the intent of the general assembly that the provisions of section A of this act are severable, and that if any provision of section A of this act or the application thereof to any person or to any

circumstance is held invalid, that provision shall be severed from the act and all remaining provisions shall be valid.

177. RSMo. 1.140 states that all Bills are severable, but is only applies to substantive challenges. *Planned Parenthood of St. Louis Region v. Dep't of Soc. Servs., Div. of Med. Servs.*, 602 S.W.3d 201, 212 (Mo. 2020) citing *Mo. Roundtable for Life, Inc. v. State*, 396 S.W.3d 348, 353-54 (Mo. banc 2013).

178. Procedural challenges are handled differently. Under *Hammerschmidt v. Boone Cnty.*, 877 S.W.2d 98, 103 (Mo. 1994):

When the Court concludes that a bill contains more than one subject, the entire bill is unconstitutional unless the Court is convinced beyond reasonable doubt that one of the bill's multiple subjects is its original, controlling purpose and that the other subject is not. In reaching this determination, the Court will consider whether the [additional subject] ... is essential to the efficacy of the ... [bill], whether it is a provision without which the ... [bill] would be incomplete and unworkable, and whether the provision is one without which the ... [legislators] would not have adopted the ... [bill].

179. This is restated in *Planned Parenthood of St. Louis Region v. Dep't of Soc. Servs., Div. of Med. Servs.*, 602 S.W.3d 201, 211-212 (Mo. 2020), citing *Mo. Roundtable for Life, Inc. v. State*, 396 S.W.3d 348, 353-54 (Mo. banc 2013):

When evaluating a *procedural* constitutional violation, the doctrine of judicial severance is applied and severance is only appropriate when this Court is “convinced beyond a reasonable doubt” that the legislature would have passed the bill without the additional provisions and that the provisions in question are not essential to the efficacy of the bill . *Hammerschmidt v. Boone Cnty.*, 877 S.W.2d 98, 103-104 (Mo. 1994). Both of these inquiries seek to assure the Court that, beyond a reasonable doubt, the bill would have become law—and would remain law—even absent the procedural violation. If the Court is not convinced beyond a reasonable doubt, then the bill as a whole was passed in violation of the constitution and the challenged provisions cannot be severed.

180. The Governor’s Proclamation mentioned both disaster relief and pro sports team subsidies. While the “real world” point of the thing is the bribe to the teams, it is

impossible to really know the topics is its “original, controlling purpose” and so the entire bill fails.

181. The challenges herein are mostly procedural.

182. In *Byrd v. State*, 679 S.W.3d 492, 497 (Mo. 2023) the court stated:

It is certainly possible the General Assembly would have passed TAFP HB 1606 without the inclusion of section 67.2300, but this is mere speculation and falls far short of the standard set forth above. What was true in *City of De Soto v. Parson*, 625 S.W.3d 412 (Mo. banc 2021), is true in this case as well, i.e., “there is simply no basis for inferring – with the high degree of certainty required by this Court’s prior cases – that this is what *would* have happened.” *Id.* at 419 (emphasis in the original). It takes an extraordinary showing to convince this Court to engage in judicial surgery to save a bill infected with the otherwise fatal constitutional disease of multiple subjects, and no effort was made by any party to make such a showing here.

183. This court should heed Judge Fischer’s admonition in the third to last paragraph of his concurrence in *Legends Bank v. State*, 361 S.W.3d 383, 392–93 (Mo. 2012):

Finally, applying the judicially created doctrine of severance in these cases dealing with procedural mandates of our Missouri Constitution effectively violates the separation of powers<sup>7</sup> protected by the United States Constitution<sup>8</sup> and article II, section 1, of the Missouri Constitution. The separation of powers is a key component of our democracy and should be honored and protected. When a circuit court or this Court does not invalidate the entire bill, which has been enacted in violation of the original purpose, single subject, or clear title provisions of our state Constitution and severs only a portion of the bill, it may be subverting the legislative process and allowing legislation to survive that might not have received enough votes to become law. In essence, severance, which presumably legislators favor because it allows a portion of their legislation to survive, amounts to judges being allowed to draft legislation, which presumably legislators do not favor. The legislature can have the final say on these matters if they enact legislation in accord with the procedures prescribed in our Constitution.

184. The court needs to stay out of the legislature’s (sausage making) kitchen and simply examine whether the meal served is the same as the meal which was ordered from the menu.

185. Upon that examination, the Bill’s procedural infirmities mean it is not severable and fails in its entirety.

## ATTORNEYS' FEES

### Fees Incurred

186. In pursuing this litigation Plaintiffs have incurred and are incurring reasonable attorneys' fees.

### Public Interest

187. This litigation seeks to protect the constitutional rights of Missouri citizens and uphold the integrity of the legislative process. This case is of significant public interest, in that it challenges the constitutionality of Senate Bill 3, a bill that, if enforced, would have profound implications for the citizens of Missouri by granting substantial public funds to private sports franchises without clear public benefit.
188. The passage of Senate Bill 3 is further alleged to be unconstitutional on several grounds, including the grant of public money to private persons, the enactment of a special law, the inclusion of multiple subjects, the lack of a clear title, and a change in the original purpose of the bill. These constitutional violations undermine the democratic process and the rule of law, which are foundational to the rights and interests of Missouri's citizens.
189. Plaintiffs Moon and Wolfin have brought this action not only in their individual capacities but also in their official capacities as elected representatives. Their involvement underscores the public interest nature of this litigation, as they seek to ensure that the legislative process adheres to constitutional mandates and that public funds are used for legitimate public purposes.
190. Given the significant public interest and constitutional principles at stake, Plaintiffs assert that an award of attorneys' fees is appropriate in this case. Such an award would

recognize Plaintiffs' efforts to protect the public interest and to deter future legislative actions that disregard constitutional procedures.

### **Sovereign Immunity for Attorney's Fees**

191. In order to receive attorneys' fees from the state Plaintiffs must overcome sovereign immunity.
192. To overcome sovereign immunity Plaintiffs must demonstrate "special circumstances."
193. Special circumstances are met when a party engages in conduct that is "frivolous, without substantial legal grounds, reckless or punitive, or commit intentional misconduct," *Boles v. City of St. Louis*, 690 S.W.3d 592, 609 (Mo. Ct. App. 2024), (Cleaned up), (Citations omitted).
194. The enactment of the bill in violation of so many constitutional provisions meets that test, and if it does not Plaintiffs make a good faith assertion that they attempt to change the law.

### **COUNT I, DECLARATORY JUDGMENT**

195. Plaintiffs incorporate all prior paragraphs.
196. For any one or all of the reasons as stated herein:
- a. Grant of public money to private persons,
  - b. Special law,
  - c. Multiple subjects,
  - d. Title not clear, and
  - e. Change of original purpose,

WHEREFORE, Plaintiffs pray the court to declare that Senate Bill 3 of the first Extraordinary Session of the 103<sup>rd</sup> Missouri General Assembly is unconstitutional, to award

Plaintiffs their attorneys' fees, to award Plaintiffs their costs, and to grant such other orders as the court finds to be just, meet and reasonable.

**COUNT II, INJUNCTIVE RELIEF**

- 197. Plaintiffs incorporate all prior paragraphs.
- 198. For any one or all of the reasons as stated herein:
  - a. Grant of public money to private persons,
  - b. Special law,
  - c. Multiple subjects,
  - d. Title not clear, and
  - e. Change of original purpose,

WHEREFORE, Plaintiffs pray the court to enjoin enforcement of Senate Bill 3 of the first Extraordinary Session of the 103<sup>rd</sup> Missouri General Assembly because it is unconstitutional, to award Plaintiffs their attorneys' fees, to award Plaintiffs their costs, and to grant such other orders as the court finds to be just, meet and reasonable.

Respectfully Submitted,

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