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STATE OF MINNESOTA
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Mary Kiffmeyer, Scott J. Newman, Warren Limmer, Julianne Ortman, Mike Parry, Sean Nienow, David Brown, David Senjem, Bill Ingebrigtsen, Paul Gazelka, Roger Chamberlain, Ray Vanderveer, Claire Robling, all individuals, registered voters, and Members of the Minnesota Legislature; Jeff Davis, an individual and registered voter; Dan McGrath, an individual and a registered voter; Minnesota Majority, Inc., a nonprofit corporation; and ProtectMyVote.com, an association of individuals and registered ballot committee,

Petitioners,

vs.

Mark Ritchie, in his official capacity as Secretary of State of the State of Minnesota, and Lori Swanson, in her official capacity as Attorney General of the State of Minnesota,

Respondents.

RESPONDENTS' BRIEF AND ADDENDUM

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The appendix to this brief is not available for online viewing as specified in the *Minnesota Rules of Public Access to the Records of the Judicial Branch*, Rule 8, Subd. 2(e)(2).

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LEGAL ISSUES

- I. Whether the Secretary of State has authority pursuant to Minn. Stat. § 204D.15, subd. 1 to provide a title for the ballot question at issue.

Apposite Authorities:

Minn. Const. art. IV, § 23

Minn. Const. art. IX, § 1

Minn. Stat. § 204D.15 (2010)

Breza v. Kiffmeyer, 723 N.W.2d 633 (Minn. 2006)

Bergman v. M. Mills, 988 S.W.2d 84 (Mo. Ct. App. 1999)

I.N.S. v. Chadha, 462 U.S. 919 (1983)

- II. Whether the Secretary of State provided an “appropriate” title for the ballot question.

Apposite Authorities

Minn. Stat. § 3.21 (2010)

Minn. Stat. § 204D.15 (2010)

Breza v. Kiffmeyer, 723 N.W.2d 633 (Minn. 2006)

Knapp v. O'Brien, 179 N.W.2d 88 (Minn. 1970)

STATEMENT OF THE CASE

Since 1919, Minnesota legislation has explicitly granted to the Secretary of State the responsibility to designate the title on the general election ballot for a proposed constitutional amendment. The current law, Minn. Stat. § 204D.15, subd. 1 (2010), directing the Secretary to “provide an appropriate title,” was adopted in 1981 and remains in full force and effect. In addition, the Governor vetoed legislation which included a different title than the one provided by the Secretary for the subject constitutional amendment. The Legislature did not override the Governor’s veto. The title duly provided by the Secretary pursuant to applicable law should be given effect by the Court.

STATEMENT OF FACTS

On April 5, 2012, the Minnesota Legislature passed a bill to propose a constitutional amendment for the electorate to consider at the 2012 general election. 2012 Minn. Laws ch. 167 (“Chapter 167”). The bill contained the text of the proposed constitutional amendment and the question that would appear on the ballot, as well as a title for the question. *Id.*

In a letter dated April 5, 2012, the Revisor of Statutes, “under the direction of the Minnesota Legislature,” presented Chapter 167 to Governor Dayton. (Respondents’ Addendum “R. Add.” 1.) Specifically, the letter stated that the Revisor “asked [her] staff to deliver [Chapter 167] to you [Governor Dayton] for your information.” (*Id.*) The letter then requested that the Governor “please ask your staff to deposit the original document [Chapter 167] with the Secretary of State.” (*Id.*)

Rather than depositing the bill with the Secretary of State, the Governor timely vetoed and returned the bill to the Minnesota House of Representatives (the originating body) on April 9, 2012. (*Id.* at 2-3.) The Governor’s veto letter specifically stated that he vetoed the title. (*Id.* at 2.) The Governor’s veto of Chapter 167 had no effect with respect to the proposed constitutional amendment and the ballot question.¹ (*Id.*)

Notwithstanding the Governor’s veto of the title, by letter of April 9, 2012, the Clerk of the House of Representatives requested that the Revisor “deposit [Chapter 167] with the Secretary of State,” without any qualification. (*Id.* at 7.) The Legislature did not override or attempt to override the Governor’s veto of the title. 2012 Minn. Laws ch. 167.

By letter dated July 3, 2012, the Secretary of State notified the Attorney General that he provided a title for the ballot question as required by Minn. Stat. § 204D.15. (R. Add. 8.) The title provided by the Secretary of State is: “CHANGES TO IN-PERSON & ABSENTEE VOTING & VOTER REGISTRATION; PROVISIONAL BALLOTS.” (*Id.*) By letter dated July 6, 2012, the Attorney General approved this title pursuant Section 204D.15. (*Id.* at 9.)

ARGUMENT

I. THE SECRETARY OF STATE IS MANDATED BY STATE STATUTE TO PROVIDE BALLOT QUESTION TITLES FOR PROPOSED CONSTITUTIONAL AMENDMENTS.

Article IX, § 1 of the Minnesota Constitution reads in relevant part as follows:

¹ See *Breza v. Kiffmeyer*, 723 N.W.2d 633, 634 n.2, 636 (Minn. 2006); Op. Atty. Gen. 213-C (March 9, 1994) (R. Add. 4-6).

A majority of the members elected to each house of the legislature may propose amendments to this constitution. Proposed amendments shall be published with the laws passed at the same session and submitted to the people for their approval or rejection at a general election.

This provision has been part of the Minnesota Constitution since its adoption in 1857. Minn. Const. art. IX, § 1 (1857). It is implemented as provided in state law. *See, e.g., State v. Randolph*, 800 N.W.2d 150, 159 (Minn. 2011) (recognizing the legislative duty to adequately implement through legislation the constitutional right to appellate counsel in misdemeanor appeals); *Electric Short Line Terminal Co. v. City of Minneapolis*, 64 N.W.2d 149, 152 (Minn. 1954) (recognizing that because the Takings Clause of the Minnesota Constitution contains no express provision as to the mode in which compensation is to be determined, it is “presumed that the framers of the constitution intended to leave that subject to the discretion of the legislature, to be regulated in such manner as might be prescribed by law”).

Beginning in 1887, various laws have been enacted to implement Article IX. *See, e.g.,* 1887 Minn. Laws ch. 157. In 1905, the Legislature enacted a law, now codified as Minn. Stat. § 3.20,² which provides that a proposed constitutional amendment “shall be submitted and voted upon at the next general election as provided by the law relating to general elections.”

In 1919, the Legislature passed a statute which required the Secretary of State to “apply an appropriate designation or title” on the ballot for each proposed constitutional

² Minn. Stat. § 3.20 was originally codified at Minn. Stat. § 24 (1905). Technical changes were made to Section 3.20 in 1988. *See* 1988 Minn. Laws ch. 469, art. 1, § 1.

amendment submitted to the voters at a general election. 1919 Minn. Laws ch. 76, § 1 (codified as Minn. Gen. Stat. ch. 6, § 277 (1923)). (R. Add. 10-11.) The Legislature recodified the statute in 1939 (1939 Minn. Laws ch. 345, pt. 6, ch. 7, § 3, codified as Minn. Stat § 205.62 (1941)), in 1959 (1959 Minn. Laws ch. 675, art. 4, § 28, codified as Minn. Stat. § 203.28, subd. 2 (1961)), and in 1975 (1975 Minn. Laws ch. 5, § 53, codified as Minn. Stat. § 203A.31, subd. 2 (Supp. 1975)).

A. The Secretary Was Required To Provide The Title Pursuant To Minn. Stat. § 204D.15.

In 1981, the Legislature reorganized Minnesota’s election laws, including the laws relating to general elections, and the bill was signed by then-Governor Quie. *See* 1981 Minn. Laws ch. 29, pp. 38-39, 153. *See also Clark v. Pawlenty*, 755 N.W.2d 293, 306 (Minn. 2008) (noting the reorganization of Minnesota election laws in 1981). The reorganized laws included procedures for presenting a proposed change to the State Constitution on the general election ballot. *See, e.g.*, 1981 Minn. Laws ch. 29, art. 6, §§ 11, 15 (codified as Minn. Stat. §§ 204D.11 and 204D.15).

Pertinent to this case, Minn. Stat. § 204D.11, subd. 2 provides that “[a]mendments to the state constitution shall be placed on a ballot printed on pink paper which shall be known as the ‘pink ballot.’” Minn. Stat. § 204D.15, subd. 1 is entitled “**Titles for constitutional amendments,**” and provides in relevant part as follows:

The secretary of state shall provide an appropriate title for each question printed on the pink ballot. The title shall be approved by the attorney general, and shall consist of not more than one printed line above the question to which it refers.

(Emphasis added). The 1981 reorganization of Minnesota’s election laws also included Minn. Stat. § 204B.36, subd. 3, 1981 Minn. Laws ch. 29, art. 4, § 36. Section 204B.36, subd. 3 states that “[w]hen a question is submitted to a vote, a concise statement of the nature of the question shall be printed on the ballot,” but did not direct the Secretary or any other executive branch official to provide the question.³

Section 204D.15 plainly requires the Secretary to provide titles for all proposed constitutional ballot questions. *See, e.g., Breza*, 723 N.W.2d at 635 n.3 (“By statute, the secretary of state must provide an appropriate title for each question presented on the ballot for constitutional amendments, and the title must be approved by the attorney general.”). Accordingly, the Secretary of State was authorized, and indeed mandated, to provide the title.

Section 204D.15 and its predecessor laws (since 1919) constitute a public policy decision between prior legislatures and various Governors that the State’s chief election official has sole responsibility for providing the title on the general election ballot for a constitutional question. This public policy, created over 90 years ago, reflects an intended balance between the Legislature’s proposing of the constitutional amendment and stating the question, and the executive branch providing the title. *See Breza*, 723 N.W.2d at 636 & nn.2, 3 (recognizing that Legislature proposes constitutional change and articulates ballot question, but by statute Secretary provides the title).

³ The predecessor to Section 204B.36, subd. 3 was enacted in 1939. *See* 1939 Minn. Laws ch. 345, pt. 6, ch. 7, § 3.

Other longstanding related statutes also evidence the intent that the executive branch have a significant role in the process of proposing changes to the State constitution. *See* Minn. Stat. § 3.21 (2010), previously codified at Minn. Stat. § 97 (1891) (requiring since 1887 that the Attorney General, the State’s chief legal officer, provide a statement of purpose and effect of proposed constitutional amendment for use by the public); *Knapp v. O’Brien*, 179 N.W.2d 88, 92-93 (Minn. 1970) (recognizing that since 1887 the Attorney General has had a statutory duty to provide a statement of purpose and effect to be relied on by the electorate in voting on a proposed constitutional amendment). *See also* Section 204D.15, subd. 1 (requiring Attorney General to approve title provided by Secretary of State). Such participation of the executive branch in the proposed state constitutional amendment process is also common in other states⁴.

B. Section 204D.15 Remains In Full Force And Effect And Petitioners’ Argument To The Contrary Violates Separation Of Powers.

An existing statute, including Section 204D.15, can only be amended or repealed by enactment of a new law. *See, e.g., Clinton v. City of New York*, 524 U.S. 417, 428

⁴ *See, e.g.,* Iowa Code § 49.44 (2012) (requiring the secretary of state to prepare a written summary of proposed amendments and that the written summary shall be “printed immediately preceding the text of the proposed amendment or measure on the paper ballot”); N.D. Cent. Code § 16.1-06-09 (2012) (providing that the secretary of state and attorney general “shall cause to be printed a short, concise summary” of any proposed constitutional amendment); Okla. Stat. tit. 34, § 9(C)(1) (2012) (requiring the attorney general to review the appropriateness of a ballot title proposed by the legislature and directing the attorney general to provide a replacement title if necessary); R.I. Gen. Laws § 17-5-1.1 (2012) (requiring the secretary of state to prepare ballot question for any constitutional amendment proposed by the general assembly for submission to the voters); S.D. Codified Laws § 12-13-9 (2012) (requiring the attorney general to prepare the title, an explanation, and a recitation of the effect of an amendment, all of which shall appear on the printed ballot).

n.12 (1998) (noting that a statute can be amended or repealed only through the constitutional process of enacting a new statute); *I.N.S. v. Chadha*, 462 U.S. 919, 954 (1983) (recognizing that “[a]mendment or repeal of statutes, no less than enactment,” must conform with constitutional lawmaking procedures). This fundamental principle reflects the balance struck between the legislative and executive branches of government for the making of laws. *See, e.g., Duxbury v. Donovan*, 138 N.W.2d 692, 696 (Minn. 1965) (noting that Governor’s veto authority is designed “to maintain the separation of the branches of government.”). Indeed, the public policy underlying a duly enacted statute can only be changed by another duly enacted statute, or else separation of powers will be violated.

Chapter 167 did not purport to amend or repeal Section 204D.15; rather, it acknowledged the “title [was] required under Minnesota Statutes, section 204D.15, subdivision 1”, 2012 Minn. Laws ch. 167, § 2(b), the law mandating the Secretary to provide the title. In any event, Governor Dayton vetoed the bill, including specifically the title, on April 9, 2012. (R. Add. 2.)⁵ Thus, to the extent the Legislature’s reference to

⁵ Among the most important of constitutional checks is the executive veto, which provides an important restraint upon the legislature’s ability to enact, amend or repeal laws. *Duxbury*, 138 N.W.2d at 696. The Minnesota Constitution provides that the Governor may veto a bill by returning it to the house in which it originated within three days of its presentment to the Governor. Minn. Const. art. IV, § 23. In this case, the bill was presented to the Governor on April 5, 2012. (R. Add. 1.) *See infra* notes 6 & 7. The Governor returned the vetoed bill to the House of Representatives, the originating body, on April 9, 2012, which was timely because the three-day requirement does not include Sundays and April 8, 2012, was a Sunday. (R. Add. 2.) Moreover, the Governor’s acknowledgment that his veto did not prevent the proposed amendment from being on the ballot, or that the Revisor of Statutes failed to include the veto in the official record, does not change the undisputed fact that the Governor vetoed the title. *Id.*

a title is argued to be an amendment or repeal of Section 204D.15, the Governor's veto of the bill defeats any such argument.⁶ See Minn. Const. art. IV, § 23 (granting Governor veto authority).

In other words, Section 204D.15 was duly enacted in 1981 as part of the constitutionally required lawmaking process, *i.e.*, passage of a bill by the Legislature and approval by then-Governor Quie. 1981 Minn. Laws ch. 29, art. 6, § 15 & p. 153. As with all existing statutes, the Legislature must follow the same lawmaking process to amend or repeal Section 204D.15, including the Governor's right to veto any such law. See *supra* at 7-8. Therefore, contrary to Petitioners' argument, the Legislature cannot unilaterally⁷ amend or repeal Section 204D.15 (and its underlying public policy) because it would violate separation of powers by usurping the Governor's veto authority. See *supra* at 7-8 & n.5. The Legislature is bound in this case by the 1981 enactment of Section 204D.15.⁸

⁶ The title referred to in Chapter 167 was not even properly presented to the Governor by the Legislature for the constitutionally required purpose of allowing the Governor to exercise his veto authority. See, *e.g.*, R. Add. 1 (Revisor's letter to Governor stating that "I have asked my staff to deliver Laws 2012, Ch. 167, H.F. 2738 to you for your information. Following your review, please ask your staff to deposit the original document with the Secretary of State.").

⁷ It is clear that the Legislature intended to unilaterally provide the title notwithstanding Section 204D.15 and the Governor's constitutional authority to veto legislation. See, *e.g.*, R. Add. 1 (Revisor stating that Chapter 167 was delivered to Governor only "for your information."); R. Add. 7 (Clerk of the House of Representatives ignoring Governor's veto of the title and directing Revisor to deposit Chapter 167 with the Secretary of State). See also *supra* note 6.

⁸ Petitioners erroneously refer to a 2008 proposed constitutional amendment. (Pet. Br. at 14 (citing 2008 Minn. Laws. ch. 151).) That 2008 bill was presented on Friday, February

A similar conclusion was reached in *Bergman v. M. Mills*, 988 S.W.2d 84 (Mo. Ct. App. 1999). In that case, the Missouri General Assembly passed a bill directing that a referendum be submitted to the voters concerning the right of citizens to carry concealed firearms. *Id.* at 87. The General Assembly’s bill included a “ballot title[]” for the referendum. *Id.* Several parties challenged the title on the ground that pre-existing state statutes assigned responsibility for providing a ballot title to executive branch officials. *Id.* at 90. The issue before the Missouri Court of Appeals was whether “the legislature has limited its own ability to prescribe ballot language without first amending or repealing those [pre-existing] statutes in a manner permitted by the Constitution.” *Id.* at 89.

After noting that separation of powers “prevents abuses which can flow from centralization of power”, the court held that:

The legislature is strictly confined by . . . the Missouri Constitution to *enacting laws and it is not permitted to execute laws already enacted. . . . [T]he legislature may not control, supervise or manage the execution of law except by the language contained in the law itself.* There is nothing in Chapter 116 that expressly reserves unto the General Assembly the authority to prepare official ballot summaries when it desires to do so, nor is there any implied reservation of such power. *Accordingly, the legislature has limited its ability to prescribe ballot language . . . and it cannot now purport to control the execution of the law. . . .*

15, 2008 to the Governor, who, unlike this case, did not veto the bill, including the title. (2008 Minn. Laws ch. 151; Minn. H.J., 85th Leg., Reg. Sess. 7934 (2008).) Instead, Governor Pawlenty delivered the bill to the Secretary of State for filing on Tuesday, February 19, 2008. (2008 Minn. Laws. ch. 151.) *See also* Minn. Const. art. IV, § 23 (stating bill becomes law within three days, excepting Sundays, after its presentment to Governor, unless vetoed or legislative adjournment prevents return of bill).

Id. at 90-91 (emphasis added). *See also id.* at 90 (concluding that legislature did not “somehow retain[] an inherent authority to draft official ballot summaries itself whenever it chooses to do so.”).

Likewise, the Minnesota Legislature’s attempt to provide a title to the proposed constitutional amendment is without legal effect. By enacting Minn. Stat. § 204D.15, the Legislature required the Secretary of State to provide the title. *Breza*, 723 N.W.2d at 635 n.3 (recognizing that state law required Secretary of State to provide title). *See also State v. King*, 257 N.W.2d 693, 697 (Minn. 1977) (recognizing that Legislature can delegate discretionary authority to executive branch, and stating that the Court “view[s] legislative delegations liberally”). Therefore, just as in *Bergman*, the Legislature is bound by its statutory delegation of authority to the Secretary of State and “it cannot now purport to control the execution of the law[.]” *Bergman*, 988 S.W.2d at 91.⁹ Since the Secretary of State followed proper procedure to provide a ballot question title under Minn. Stat. § 204D.15, the title selected by the Secretary should appear on the ballot.

⁹ Approximately three months after the *Bergman* decision, the Missouri General Assembly amended its title statute (by a bill signed by the Missouri Governor) to allow the Missouri Secretary of State to provide a title and summary statement only when a joint resolution of the Missouri Legislature proposing an amendment does not include a title or summary statement. 1999 Mo. Legis. Serv. H.B. 676. Similarly, Section 204D.15 can be amended or repealed through the lawmaking procedures outlined in the Minnesota Constitution.

C. Petitioners' Arguments Ignore The Fact That A Pre-existing Statute Requires The Secretary To Provide The Title And The Title Referenced In Chapter 167 Was Not Duly Enacted.

Petitioners' contention that a ballot title is similar to a ballot question (Pet. Br. at 11-12), misses the point of why the Legislature cannot unilaterally disregard Section 204D.15. Unlike the ballot question, the Secretary of State is specifically required by a pre-existing statute to "provide an appropriate title." *Compare* Section 204D.15, subd. 1 ("[T]he secretary of state shall provide an appropriate title for each [constitutional] question") *with* Section 204B.36, subd. 3 (stating only that the question shall appear on the ballot). *See also* *Breza*, 723 N.W.2d at 635 n.3 (acknowledging that Legislature can provide the ballot question, but stating "[b]y statute, the secretary of state must provide an appropriate title for each question presented on the ballot for constitutional amendments"); Minn. Stat. § 3.20 (stating that proposed constitutional amendment must be submitted at general election as provided by law). Accordingly, as discussed above, Section 204D.15 must be duly amended or repealed (which it was not) for the Legislature to provide the title. *See supra* at 7-11.

In addition, there is no need to construe the title provision of Chapter 167 (Pet. Br. at 15), because it was not duly enacted. *See supra* at 7-10 & nn. 5, 6, 7. Only Section 204D.15 validly addresses the title of a ballot question for a proposed constitutional amendment and the plain language of the statute requires the Secretary to "provide an appropriate title." *See, e.g., ILHC of Eagan, LLC v. County of Dakota*, 693 N.W.2d 412, 419 (Minn. 2005) (citing Minn. Stat. § 645.16 and stating that unambiguous language of statute must be given effect).

Petitioners' argument that one legislature cannot bind its successor (Pet. Br. at 17) is also misplaced. This principle merely refers to the unremarkable proposition that the Legislature cannot prevent a future legislature from repealing or amending a statute through constitutional lawmaking procedures. *See ex rel. Bergin v. Washburn*, 28 N.W.2d 652, 654 (Minn. 1947) (recognizing the authority of the Legislature to amend or repeal statutes passed by a prior legislature); *supra* at 9-11. As discussed above, the Legislature must follow the constitutional lawmaking process to amend or repeal Section 204D.15.

II. THE SECRETARY PROVIDED AN "APPROPRIATE" TITLE.

The title provided by the Secretary of State accurately refers to the constitutional amendment at issue. It is undisputed that the proposed amendment would make a number of changes to Minnesota's election laws, including: (1) mandating that in-person voters present government-issued photographic identification before receiving a ballot; (2) requiring that all voters, in-person and absentee, be subject to substantially equivalent identity and eligibility verification; and (3) requiring the creation of a provisional balloting system. 2012 Minn. Laws ch. 167 § 1. Pursuant to his authority under Section 204D.15, the Secretary of State provided the following title: "CHANGES TO IN-PERSON & ABSENTEE VOTING & VOTER REGISTRATION; PROVISIONAL BALLOTS." (R. Add. 8.)

The Secretary's title accurately reflects the multiple changes to existing law that would result from passage of the amendment. The title appropriately indicates that changes would impact both in-person voters, who would need to present valid

government-issued photo identification, as well as absentee voters, who would be subject to substantially equivalent identity and eligibility verification. It also appropriately reflects changes in voter registration due to the photo identification and substantial equivalency requirements,¹⁰ as well as the amendment's requirement of a provisional ballot system. The title is particularly appropriate in light of the statutory limitation that the title take up no more than one line on the ballot. Minn. Stat. § 204D.15, subd. 1. *See also Bergman*, 988 S.W.2d at 92 (considering space limit on ballot in determining sufficiency of ballot summary).

The Secretary's title is also consistent with the statement of purpose and effect provided by the Attorney General. *See* Minn. Stat. § 3.21 (requiring attorney general to furnish to the secretary of state a statement of purpose and effect for all proposed constitutional amendments); *Knapp*, 179 N.W.2d at 92-93 (noting long history of the required statement of purpose and effect and concluding that "[i]t is evident that the Legislature has been mindful of the fact that frequently people who are not educated in the law do not understand the legal terminology of a proposed constitutional amendment and, for that reason, has required that the attorney general explain it to them so they understand what they are voting on.") *id.* at 94 ("[I]t must be assumed that [the electorate] relied on the attorney general's explanation of the effect of the amendment."); *see also Elbers v. Growe*, 502 N.W.2d 810, 814 & n.2 (Minn. Ct. App. 1993), *rev. denied*

¹⁰ For example, under current law, voters can register and vote on election day at the polling place without showing a government-issued photo identification. *See* Minn. Stat. § 201.061, subd. 3 (allowing voters to register and vote on election day by completing registration application, making an oath, and providing proof of residence, including by means other than government-issued photo identification).

(Minn. Sept. 30, 1993) (citing *Knapp* and recognizing that the reason for the statement of purpose and effect is “to guide people who were not educated in the law so that they could understand what they were voting on.”). For example, the statement of purpose and effect explains that the Legislature would need to pass implementing legislation regarding several subjects, including “the manner in which election day registration is conducted” and a provisional voting system, if the amendment is approved by the voters. (R. Add. 13.)

The Secretary’s title accurately reflects and helps inform voters of the nature and the full breadth of the proposed amendment. *Cf. Breza*, 723 N.W.2d at 636 (stating ballot question is proper unless it is “so unreasonable and misleading as to be a palpable evasion of the constitutional requirement to submit a law to popular vote.”); *State v. Duluth & N.M. Ry. Co.*, 112 N.W.2d 897, 898-99 (Minn. 1907) (upholding ballot question which “fairly expressed” the “clear and essential purpose” of the amendment). In contrast, Petitioners’ argument that the title should only reference photo identification, (Pet. Br. at 24), does not reflect the full breadth and effect of the amendment, since photo identification is only one part of the amendment.

CONCLUSION

For the above reasons, the Petition should be denied.

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Respectfully submitted,

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