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IN THE

SUPREME COURT OF MISSOURI

No. SC99185

STEPHANIE DOYLE,

Plaintiff/Appellant

vs.

JENNIFER TIDBALL,

Defendant/Respondent.

Appeal from the Circuit Court of Cole County
The Honorable Jon E. Beetem, Circuit Judge

BRIEF OF ACCESS FAMILY CARE, AFFINIA HEALTHCARE, CARE STL HEALTH, CENTRAL OZARKS MEDICAL CENTER, COMMUNITY TREATMENT, INC., COMPREHENSIVE HEALTH CENTER, FAMILY CARE HEALTH CENTERS, GREAT MINES HEALTH CENTER, KATY TRAIL COMMUNITY HEALTH, KC CARE HEALTH CENTER, MISSOURI HIGHLANDS HEALTH CARE, MISSOURI OZARKS COMMUNITY HEALTH, AND SAMUEL U. RODGERS HEALTH CENTER AS *AMICUS CURIAE* IN SUPPORT OF APPELLANTS

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INTEREST OF AMICUS CURIAE[1]

Why Medicaid expansion matters to amici Missouri Community Health Centers and to the Missourians served by those Centers.

a. Missouri's community health centers' service to Missourians.

Amici are 12 of Missouri's Federally Qualified Health Centers, often referred to as FQHCs. For more than 50 years, these and other Community Health Centers have provided high-quality, affordable primary care and preventive services. They often provide on-site pharmaceutical, dental, mental health, and substance abuse services. They provide access to medical care to thousands of Missourians—regardless of their insurance status or ability to pay.

Missouri's Community Health Centers provide services in every part of the state and to individuals from every county. Locations serving rural Missouri are found from Mound City to Hannibal to Kennett to Anderson. Urban sites are found not just in the cities of St. Louis and Kansas City, but in smaller cities in all parts of the state.

Community Health Centers are the medical home to over 600,000 Missourians. They fulfill needs of their patients in more than 2.2 million encounters each year—numbers that continue to grow. Their patients are among Missouri's most vulnerable populations—people who, even if insured, nonetheless remain isolated from traditional forms of care because of where they live, who they are, the language they speak, and their higher levels of complex health care needs. Seventy percent (70%) of their patients have family incomes at or below 100% of the poverty line.

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[1] This brief is being filed with consent of all parties, given by their counsel, pursuant to Rule 84.05(f)(2).

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Community Health Centers serve a disproportionate number of uninsured and Medicaid patients: about 25% of the Community Health Center patients (about 154,000) are uninsured. Another 46% have Medicaid.

Recognized as cost-effective, Community Health Centers reduce the need for more expensive in-patient and specialty care, saving taxpayers millions of dollars.

Like FQHCs elsewhere, the Missouri Community Health Centers cannot provide all types of medically necessary care. In too many instances, the care they provide is "limited in scope, particularly since it does not include specialty or acute care for individuals with chronic conditions or the very sick. … [S]ome FQHCs do not have the capacity for directly providing high value preventive services such as mammography or core primary care services such as clinical laboratory tests or pharmacy services." Nadereh Pourat, *et al.*, "There and Back Again; How the Repeal of ACA Can Impact community Health Centers and the Populations They Serve," Family and Community Health, April/June 2018, pp. 83-94, available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5822742/ (hereafter, "Pourat Study"). That care can be obtained via Medicaid or health insurance—and Community Health Centers can help their patients access that care.

b. The Affordable Care Act coverage gap.

The Affordable Care Act (ACA) addressed access to health care coverage across a spectrum of income levels, using two different programs: Medicaid, which pays for care directly; and the marketplaces or exchanges, which subsidize the purchase of health insurance from private providers. The ACA included a national income ceiling for federal Medicaid payments to match the point at which marketplace subsidies in the exchanges begin.

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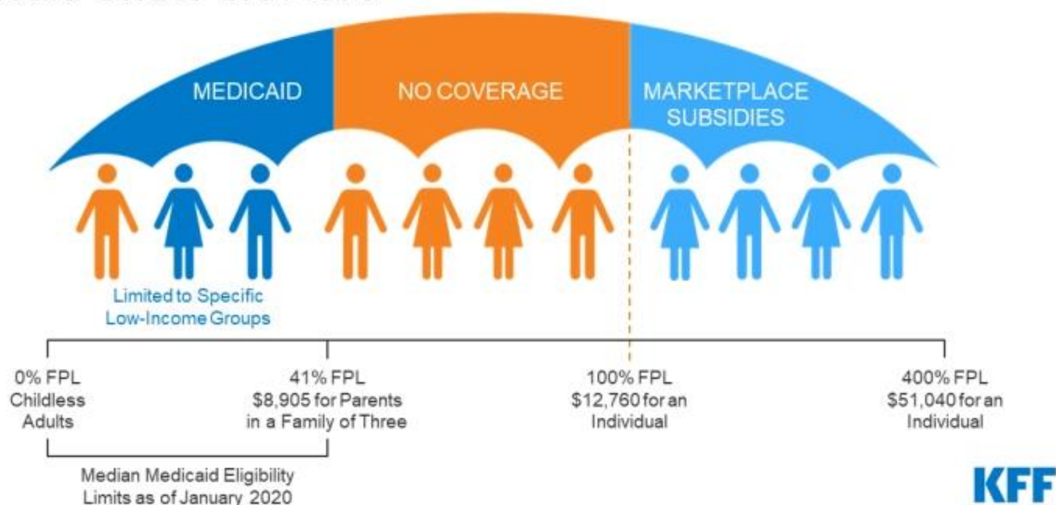
To entice states to modify their own Medicaid plans in order for their residents to take qualify for coverage under the higher income ceiling, the ACA included both a carrot (the offer of higher federal reimbursements) and a stick (the threat of losing all federal Medicaid funds). As a result of *National Federal of Independent Business v. Sebelius*, 567 U.S. 519 (2012), states could avoid the stick—and already could decline the carrot. By January 2015, 28 states had entered the expanded program. And as of today, 38 states and the District of Columbia have done so. *See* Kaiser Family Foundation, Status of State Action on the Medicaid Expansion Decision, available at https://www.kff.org/health-reform/state-indicator/state-activity-around-expanding-medicaid-under-the-affordable-care-act/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D. (Because of the legislative action at issue here, we exclude Missouri from 39 that the Kaiser Family Foundation counts.)

The result of a state rejecting expansion is the creation of the coverage gap shown in this Kaiser Family Foundation image:



Kaiser Family Foundation, The Coverage Gap: Uninsured Poor Adults in States that Do Not Expand Medicaid. https://www.kff.org/medicaid/issue-brief/the-coverage-gap-uninsured-poor-adults-in-states-that-do-not-expand-medicaid/.

c. The impact of Medicaid expansion on the Community Health Centers.

Not surprisingly, today there is a "substantial difference in rates of uninsured patients in FQHCs between Medicaid expansion and non-expansion states"—a difference that "reflect[s] the perpetuation of disparities in coverage and access in non-expansion states for the most vulnerable populations." Pourat Study. Many of those served by Missouri's Community Health Centers are in the coverage gap. In fact, as many as 150,000 of the Centers' patients could be directly affected by what the Court decides in this case.

But so will the Centers themselves.

FQHCs like the Missouri Community Health Centers rely to a significant degree on federal grants. But that is not their only funding source.

> FQHCs receive Section 330 grants to support the delivery of care to the uninsured who are unable to pay in full for services they receive. But the capacity of FQHCs to provide care for uninsured and underinsured populations is also dependent on adequate numbers of insured patients to guarantee sustainability and financial solvency of these organizations.

Pourat study. The "sustainability and financial solvency the Missouri Community Health Centers depends on having insured patients. Logically, the Pourat study found that "FQHCs benefited from Medicaid expansion by having a smaller proportion of uninsured patients in 2015 compared to those in non-expansion states." In other words, Medicaid expansion reduced the

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portion of FQHC patients whose care was uncompensated by Medicaid or insurance.

The Medicaid expansion enacted by Missouri voters, to the extent it is funded by appropriations, will allow the federal grant dollars that flow to Missouri's Community Health Centers to go further in serving others. Those centers will be able to serve more patients, and to offer their patients more essential medical services.

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ARGUMENT

Before this Court are two questions. The first is the one presented by the circuit court's rationale: Can voters by initiative tell the General Assembly how to run a program, if they leave to the General Assembly both whether and to what level to appropriate funds for the program as redesigned? The second is the one that the Defendants/Respondents focused on in the circuit court: Did the General Assembly, through an appropriations bill that says nothing about Medicaid eligibility, render void the voters' enactment of an eligibility change to eliminate the coverage gap between Missouri's former income ceiling and the ACA exchange subsidies? Both matter to amici because they affect the access of amici's patients to Medicaid. But the second goes further: It presents a broader threat to the ability of amici and others to rely on the language of enacted bills.

I. The Missouri constitution allows initiatives that affect the nature of state programs—so long as they leave to the General Assembly the question of whether to appropriate existing revenue to the modified program.

Whether the eligibility for Medicaid in Missouri was changed by Amendment 2 (Art. III, § 36(c)) is critically important to amici. It directly affects nearly all of their 154,000 uninsured patients. After rejecting the argument made by defendants/respondents regarding the construction of the appropriations bill (addressed in II below), the circuit court broadly construed an exception to the initiative power so as to entirely invalidate Amendment 2. The circuit court was wrong because the initiative left the ultimate appropriations authority in the hands of the General Assembly.

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This Court has observed:

> The people, from whom all constitutional authority is derived, have reserved the 'power to propose and enact or reject laws and amendments to the Constitution.' Mo. Const. art. III, [sec.] 49. When courts are called upon to intervene in the initiative process, they must act with restraint, trepidation and a healthy suspicion of the partisan who would use the judiciary to prevent the initiative process from taking its course. Constitutional and statutory provisions relative to initiative are liberally construed to make effective the people's reservation of that power....

Comm. for a Healthy Future, Inc. v. Carnahan, 201 S.W.3d 503, 507 (Mo. banc 2006) (quoting *Missourians to Protect the Initiative Process v. Blunt*, 799 S.W.2d 824, 827 (Mo. banc 1990)). Thus, this "Court has interpreted the initiative power as 'broad and not laden with procedural detail.... The initiative process is too akin to our basic democratic ideals to have this process made unduly burdensome.'" *Rekart v. Kirkpatrick*, 639 S.W.2d 606, 608 (Mo. 1982), quoting *United Labor Committee of Missouri v. Kirkpatrick*, 572 S.W.2d 449, 454, 455 (Mo. banc 1978). The Court has consistently—and appropriately—acted, where possible to vindicate the people's retained power:

> The courts of this state must zealously guard the power of the initiative petition process that the people expressly reserved to themselves in article III, section 49. To that end, "[c]onstitutional and statutory provisions relative to initiative are liberally construed to make effective the people's reservation of that power."

Boeving v. Kander, 496 S.W.3d at 506, quoting *Missourians to Protect the Initiative Process*, 799 S.W.2d at 827.

This Court has also recognized that there are a few limitations on the people's retained initiative power. *E.g.*, *Comm. For a Healthy* Future, 201 S.W.3d at 507. This case involves one such limitation: "The initiative shall

not be used for the appropriation of money other than of new revenues created and provided for thereby...." Art. III, § 51. That section is, of course, one of the "[c]onstitutional … provisions relative to initiative [to be] liberally construed to make effective the people's reservation of that power." If the power is to be "liberally construed," exceptions must be strictly or narrowly construed—so as to vindicate to the maximum the people's retained initiative rights.

Litigants have brought "appropriation by initiative" challenges to this Court eight times before.[2] But this Court has never fully analyzed the meaning of the "no appropriation by initiative" clause. That is because in the prior cases, it considered that clause in the context of pre-election challenges to the placement of a question on the ballot. In those cases this Court asked, as phrased most recently in *Boeving v. Kander*, whether the initiative "on [its] face … clearly and unavoidably purports to appropriate previously existing funds." 496 S.W.3d at 511. Amendment 2 met that standard, and despite a challenge (*Cady v. Ashcroft*, 606 S.W.3d 659 (Mo. App. W.D. 2020) was on the ballot, and passed, in November 2020.

Now, the Court must address the exception's scope in a post-election case—when the people have already spoken. But from this Court's prior precedents, we can discern a pattern that forms a workable rule to be applied to a challenge claiming that an initiative impermissibly appropriates existing funds.

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[2] *Boeving v. Kander*, 496 S.W.3d 498; *City of Kansas City v. Chastain*, 420 S.W.3d 550 (Mo. 2014); *Dujakovich v. Carnahan*, 370 S.W.3d 574 (Mo. 2012); *Committee for a Healthy Future v. Carnahan*, 201 S.W.3d 503; *Missourians to Protect the Initiative Process v. Blunt*, 799 S.W.2d 824 (Mo. 1990); *Buchanan v. Kirkpatrick*, 615 S.W.2d 6 (Mo. 1981); *State ex rel. Card v. Kaufman*, 517 S.W.2d 78 (Mo. 1974); *State ex rel. Sessions v. Bartle*, 359 S.W.2d 716 (Mo. 1962); and *Kansas City v. McGee*, 269 S.W.2d 662 (Mo. 1954).

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The most recent guidance is found in *Boeving v. Kander*. There the Court suggested that there could be a post-election challenge—but note the circumstances under which it could be brought:

> If Amendment No. 3 is approved by the voters and this "donor" believes that an imminent application of the provisions of Amendment No. 3 will result in the expenditure of his or her $100 *without legislative appropriation*, he or she should raise this challenge at that time... .

496 S.W.3d at 511 (emphasis added). Adapted to this case, the question to be decided is whether Amendment 2 "will result in the expenditure" or existing revenue "without legislative appropriation." And it certainly will not.

That approach, asking whether there must still be a legislative appropriation, is consistent with earlier decisions by this Court.

In three instances, the Court concluded that the limitation in § 51 was not violated because there still needed to be an appropriation—leaving to the legislative body to decide whether to appropriate funds:

- In *Committee for a Healthy Future*, the Court found the clause was not violated because "the initiative does not affect the General Assembly's ability to increase or decrease funding for existing programs with respect to other sources of revenue." 201 S.W.3d at 510.
- In *Buchanan v. Kirkpatrick*, the Court held that the initiative did not violate § 51 because "[n]othing [in it] precludes the state from either abolishing or reducing the activity or service, so long as the state does not reduce its proportionate share as between itself and the political subdivision." 615 S.W.2d at 15.

- And in *Dujakovich v. Carnahan*, the Court pointed out that "any cost of an election is within the pure discretion of Kansas City." 370 S.W.3d at 578.

That the legislature had to take the step of actually appropriating funds, and at that point had some (albeit limited) discretion, meant that the initiative did not itself appropriate. That was true in *Dujakovich* even though a legislative decision to decline to pay the cost and hold the election would have had a devastating impact on city finances.

In three other instances, the Court held that the limitation was violated. Why? Because the legislative body was left without any choice:

- In *State ex rel. Card v. Kaufman*, the provision at issue would "take from the city council control over this phase of the finances of the City." It "require[d] the budget official to include the specified compensation in the budget, and require[d] the city council to approve it, regardless of any other financial considerations. The proposed amendment has the same effect as if it read that the sums necessary to carry out its provisions stand appropriated." 517 S.W.2d at 80.
- In *State ex rel. Sessions v. Bartle*, the Court pointed out that the "City of Kansas City is obliged to maintain its fire department," and the ordinance would dictate the salaries of those in the department." 359 S.W.2d at 719.
- In *Kansas City v. McGee*, "The ordinance by its terms places the entire control of the administration of the pension fund in the hands of the trustees. The only duty delegated to the City Council is a ministerial duty to make appropriations whenever it is requested to do so." 269 S.W.2d at 665-666.

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In each instance, the legislature could not decide at what level to appropriate. That was decided by the initiative.

Where, given those distinctions, does Amendment 2 stand? On the side of those where the people are permitted to act despite the limitation in § 51. Even the circuit court confirmed that the General Assembly has at least one choice "to fund the expansion or not to have a Medicaid program at all." Doc. 63 p5. And the General Assembly had a third choice—the one that it took: to fund Medicaid in part. Unlike the situations addressed in *Card*, *Sessions*, and *McGee*, here there has to be an appropriation, and the legislature can decline to make it, or make an appropriation that may prove to be insufficient to fund the program for the entire fiscal year.

That is not a novel position for the General Assembly to be in. In each regular legislative session, the General Assembly can appropriate *all* that it thinks a program, any program, requires for the fiscal year, *part* of that, or *none* of that. And when it does so, it can consider "other financial considerations." *Kaufman*, 517 S.W.2d at 80.

But the General Assembly cannot, merely by changing a dollar figure in a line of an appropriations bill, change a parameter of the program that was constitutionally defined by the people by initiative, any more than it can, by changing a dollar figure or including a proviso in an appropriations bill, change eligibility for any other program. *See Planned Parenthood v. Dept. of Social Serv.*, 602 S.W.3d 301 (Mo. 2020).

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II. The Court should reject the premise that those who read enacted bills must also look behind their language, researching some undefined legislative history to determine whether the language in the law means something other than what it actually says.

In the circuit court, the Defendants/Respondents resisted exclusive reliance on a claim that Amendment 2 was invalid. Indeed, such an argument departs from the longstanding practice by past Missouri attorneys general. Their determination to stand up for the voice of the people, once exercised, has led all the way to the U.S. Supreme. *Cook v. Gralike*, 531 U.S. 510 (2001).

Defendants/Respondents instead focused their claims on an effort to "replace[] the text of the statute with the legislative history." E. Leiss, 72 Neb. L. Rev. at 570. They went so far as to present statements by individual legislators, and to argue based on those that HB11 contained a limitation that cannot be found anywhere in its text.

That was a departure from past practice by attorneys—and a seriously problematic one that the Court should expressly reject, as did the circuit court. *See* Doc. 63 p.2 ("The Court rejects the semantic and legal gymnastics offered by the State on the issue of intent and whether or not Medicaid Expansion was actually funded....").

a. It is well established in this Court that where, as here, the language of an enacted bill is not ambiguous, the analysis begins and ends with that language.

This Court has consistently held that when the officers, employees, and patients of the amici review any bill enacted by the General Assembly to determine the impact of the newly enacted language, they are entitled to rely on the "plain language" of that bill. That principle has been applied by this Court in a long, long series of cases. Most recent among them:

- *S.M.H. v. Schmitt*, No. SC98675 (Mo., Mar. 8, 2021), quoting *Parktown Imports, Inc. v. Audi of Am., Inc.*, 278 S.W.3d 670, 672 (Mo. 2009) ("This Court's primary rule of statutory interpretation is to give effect to legislative intent as reflected in the plain language of the statute at issue.");
- *Aplux, LLC v. Dir. of Revenue*, 619 S.W.3d 462, 469 n.14 (Mo. 2021) (citing the "plain language of section 144.018.1");
- *State ex rel. Janssen Pharm., Inc. v. Noble*, 613 S.W.3d 58, 63 (Mo. 2020) (applying "the plain language of the statute");
- *Gott v. Dir. of Revenue*, 615 S.W.3d 52, 56 (Mo. 2020) ("Section 144.010's plain language is clear and resolves this dispute without having to resort to" an alternative interpretive approach).

The language of HB 11 (Doc. 29) at issue here is "plain"; it is neither ambiguous nor equivocal. It simply sets out amounts of money appropriated to MO HealthNet, in various categories. It makes no attempt to change the eligibility criteria set by a combination of statute and constitutional provision.

Why does this Court choose to stop there? Why look only at plain language when other methods, grounded in legislative history, might be enlightening?

There are at least two reasons: First, because the alternatives are unreliable and problematic (*see* (b)). And second, because the alternatives are unfair to and impractical for those not personally involved in the legislative process that led to the enacted language (*see* (c)).

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b. Interpretive approaches that rely on legislative history are unreliable and problematic.

Led by this Court, Missouri courts have long been skeptical of efforts to use legislative history and other extrinsic sources to construe statutes and our constitution. This Court has acted consistent with this declaration of Justice Antonin Scalia:

> The greatest defect of legislative history is its illegitimacy. We are governed by laws, not by the intentions of legislators. As the Court said in 1844: 'The law as it passed is the will of the majority of both houses, and the only mode in which that will is spoken is in the act itself. . ..'. But not the least of the defects of legislative history is its indeterminacy. If one were to search for an interpretive technique that, on the whole, was more likely to confuse than to clarify, one could hardly find a more promising candidate than legislative history. …

Conroy v. Aniskoff, 507 U.S. 511, 519 (1993) (Scalia, J. concurring) (internal citations omitted). Any attempt to discern the motives of individual legislators is likely a fool's errand, for courts simply cannot "enter the minds of the [legislators]-who need have nothing in mind in order for their votes to be both lawful and effective," but must instead "give fair and reasonable meaning to the text"—to what the legislature, as a body, actually enacted. *Pennsylvania v. Union Gas Co.*, 491 U.S. 1, 30 (1989) (Scalia, J., concurring in part and dissenting in part).

The degrees to which sources other than the words enacted can be used in construction might be compared to a pyramid:

> It may be helpful to draw a comparison to a pyramid. At the apex of the pyramid, we find that there is no reliance on legislative history. At the next lower level, where minimum reliance is used, legislative history confirms an interpretation of the 'plain meaning' of the statutory language. Intermediate reliance, approximately at the

> middle of the pyramid, is the use of legislative history without clarifying whether the text of the statute is ambiguous. The base of the pyramid represents replacement of the text of the statute with the legislative history.

E. Leiss, 72 Neb. L. Rev. at 570.

This Court has repeatedly rejected “intermediate reliance,” *i.e.*, moving to canons of construction without finding that the actual language is ambiguous. *E.g.*, *State v. Brushwood*, 171 S.W.3d 143, 147 (Mo. 2005) (“When the legislative intent cannot be ascertained from the language of the statute, by giving it its plain and ordinary meaning, the statute is considered ambiguous and only then can the rules of statutory construction be applied.”).

And it seems obvious—to amici, at least—that the Court has and should continue to reject “replacement of the text of the statute with the legislative history.”

Again, this Court’s consistent position has been, and should remain, that analysis begins, and if possible ends, at the apex of the pyramid.

Consistent with that jurisprudence, for decades, it has been the practice and policy of Missouri attorneys general, in cases where the court is asked to interpret the language of enacted bills, to resist efforts to introduce statements by legislators—whether via live testimony, by affidavit, by legislative transcript, or by press report. The alternative is problematic.

It encourages litigants to find the legislators most friendly to their cause and elevate their views above the more targeted intent that is evident in the bill’s text. Justice Scalia cited an apt image:

> Judge Harold Leventhal used to describe the use of legislative history as the equivalent of entering a crowded cocktail party and looking over the heads of the guests for one's friends.

Conroy v. Aniskoff, 507 U.S. at 519.

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Allowing litigants to cite individual legislators as if their personal views mattered not only opens the doors to manipulation, it is inconsistent with the legal principle that legislatures can only speak as one. That means that the statements of individual legislators could become material only if the record included a collection of consistent statements from a clear majority of the members of both the Senate and the House—and even then, they would be of questionable value, given that they are likely *post hoc* justifications.

And allowing such statements would be a practical nightmare. The other side would feel obligated to gather competing statements, and would have a right to cross-examine each legislator as to their real motive. That scenario, again, is one that attorneys general have consistently fought against.

Yet here, the Attorney General, acting for the Defendants/Respondents, introduced the very kind of statements that his predecessors resisted. *See* Exhibits 15 (Doc. 32) and 20 (Doc. 52). The Defendant's briefing then pointed to statements by Rep. Merideth, the Ranking Member of the House Budget Committee—and a key opponent—Rep. Smith, the Chair of the House Budget Committee—of Medicaid Expansion." Doc. 49, p.12. It went on to cite statements by the governor quoted in the plaintiff's petition. *Id.* That portion of the argument closed with references to a series of press reports. Doc. 49, p.13, citing Exhibit 20 (Doc. 52).[3]

That material was introduced despite this Court's holding that even sworn statements by legislators are not admissible. *State ex rel. Lute v. Bd. of Probation*, 218 S.W.3d 431, 436 n.5 (Mo. 2007) ("…affidavits of legislators are not admissible to discern legislative intent because an affidavit from a

[3] It is interesting that when Defendant/Respondents' counsel submitted proposed findings of fact, they made no reference to any of this material. See Doc 62.

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legislator only reflects the intent of one legislator out of 197 that voted on a particular bill."). *See also Von Ruecker v. Holiday Inns, Inc.*, 775 S.W.2d 295, 298 and n.1 (Mo. App. E.D. 1989) ("In support of this argument appellant cites the affidavit of his attorney which recounts a telephone conversation with a member of the Missouri State Senate who participated in the debates and lawmaking processes which resulted in the enactment of what is now § 537.053. Whatever the recollection of the distinguished senator may be as to the legislative intent behind the statute, we disregard the affidavit as hearsay while noting, infra, that we are bound by what the statute says, not by what one legislator meant for it to say."); *but see Commerce Bank of Kansas City, N.A. v. Missouri Div. of Finance*, 762 S.W.2d 431, 435 (Mo. App. 1988) (allowing a legislator's affidavit "[b]ecause there is ambiguity in the statute," while recognizing that it may only be "entitled to some weight where []consistent with the statute and other legislative history" and is "not controlling in determining legislative intent.").

Moreover, this Court has been reluctant to accept even a statement of purpose that received the votes of a majority in each house, concluding that even those statements are insufficient to "redefine the plain language of a statute." *Delana v. CED Sales, Inc.*, 486 S.W.3d 316, 322 (Mo. 2016).

To suggest that some agglomeration of artfully curated statements and reports of statements can be used to add an unstated meaning to an unambiguous bill (or even an ambiguous one, which HB11 is not) cannot be reconciled with this Court's precedents. The Court should expressly reject that premise.

c. Interpretive approaches that depart from plain language are impractical and unfair to those outside the legislative process who rely on the legislature's finished product.

Below, the Defendants/Respondents relied not just on legislators' statements, but on legislative actions not shown on the face of HB11—in fact, on actions with regard to other bills. That is simply another way of saying that the enacted language is not enough—that the language can be replaced with legislative history.

For amici, the historical, anti-textual approach urged by the Attorney General on behalf of the Defendants/Respondents would be problematic not just here, but elsewhere. It would mean that amici and others could not simply read an enacted bill or a codified statute and rely on its words. Instead, they would have to research, understand, and take into account an unspecified variety of legislative circumstances—the introduction, consideration, and defeat (perhaps even abandonment in light of opposition) of other, allegedly related bills; statements of legislators made at any time in committee, on the floor, or to the press; budget requests made by the governor, by agencies, or both; and whatever else a party might find and a court might credit in deciding whether to add to the language of the statute.

Allowing that approach would "say[] to the bar"—and to laypersons, such as those who manage or are served by amici—"that even an 'unambiguous [and] unequivocal' statute can never be dispositive…." *Conroy v. Aniskoff*, 507 U.S. at 519 (Scalia, J. concurring). Demanding additional research of everyone who reads enacted bills is unfair. Expecting them to be able to identify the right sources and reach the right conclusions about how those sources modify or supplement the enacted language is impractical.

Here, the language of the enacted bill unequivocally tells amici and others reading that bill what amount will be available for MO HealthNet

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(again, as defined elsewhere in statutes and now in the Constitution) as of July 1, 2021. They then know that until that money runs out, they can provide care and get reimbursed by MO HealthNet. They also know, of course, that if the money is going to run out early (as it often does), there may be a supplemental appropriation. This Court should reject any rationale that complicates or interferes with that understanding.

CONCLUSION

For the reasons state above, the Court should uphold the validity of Amendment 2, and ensure that the appropriations in HB11 fund MO HealthNet precisely as the that enacted bill says they will. The Court should reject the premise that the numbers chosen for a particular line items in an appropriations bill can affect the scope of a program when that scope is provided elsewhere in the law. And the Court should reject the concept that legislative history, in whatever form, can replace the language of an appropriations bill.

Respectfully Submitted,
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CERTIFICATE OF COMPLIANCE

I hereby certify, pursuant to Supreme Court Rule 84.06(c), that the foregoing Brief of Amici complies with Rule 55.03 and with the limitations contained in Rule 84.06(b). I further certify that this Brief contains 5478 words, as determined by the Microsoft Word 2010 word-counting system.

/s/ James R. Layton

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