

SC99185

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IN THE SUPREME COURT OF MISSOURI

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STEPHANIE DOYLE, ET AL.

Plaintiffs – Appellants,

v.

JENNIFER TIDBALL, ET AL.

Defendants – Respondents.

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On Appeal from the Circuit Court of Cole County, Missouri  
Case No. 21AC-CC00186  
The Honorable Jon Beetem

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BRIEF OF GREATER ST. LOUIS, INC., ET AL. AS *AMICI CURIAE*  
IN SUPPORT OF APPELLANTS

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## STATEMENT OF INTEREST

### I. Statement of *Amicus Curiae*, Greater St. Louis, Inc.

Greater St. Louis, Inc. (“Greater St. Louis”) is a 501(c)(6) organization, which was formed through the merger of five private sector and St. Louis-focused economic development and civic leadership organizations. The five legacy organizations were AllianceSTL, Arch to Park, Civic Progress, Downtown STL, Inc., and the St. Louis Regional Chamber. Greater St. Louis brings together the business community to promote inclusive economic growth and create jobs in the St. Louis metropolitan region. Greater St. Louis’ investors employ more than 220,000 people within the metropolitan area and generate a combined global revenue of more than \$1.16 trillion. Greater St. Louis is positioned to drive economic growth with a unified voice, a bold agenda, and as one St. Louis metropolitan area, which is anchored by a vibrant urban core.

Greater St. Louis’ focus on inclusive economic growth uniquely intersects with the instant appeal’s effect on underprivileged groups and Missouri’s economy. If this Court reverses the trial court’s decision and permits the voter-approved Medicaid expansion to proceed, underprivileged Missourians and Missouri’s economy will greatly benefit. Thus, the issues of this appeal parallel Greater St. Louis’ purpose and goals.

Greater St. Louis, along with co-*amici*, will focus on Medicaid expansion’s economic impact, which Appellants may not be able to brief in as great a detail. Greater St. Louis is well-positioned to speak to Medicaid expansion’s positive economic impact because of its intimate relationship with the St. Louis metropolitan area’s financial circumstances, which mirror Missouri’s financial issues generally. Medicaid expansion

would ensure that Missouri takes advantage of all available federal funding and would spur job growth, prompt savings to existing health programs, and increase tax revenue from the influx of federal funds to Missouri. Given the trial court's concern with the availability of appropriated funds for any costs associated with Medicaid expansion, the expansion's undeniably positive economic impact should, as appropriate, play a role in this Court's analysis.

Medicaid expansion's positive economic impact compels this Court to reverse the decision of the court below and order the implementation of the adjusted Medicaid program enrollment contemplated by Amendment 2.

## **II. Statement of *Amicus Curiae*, The Civic Council of Greater Kansas City**

The Civic Council of Greater Kansas City (the "Civic Council") is a 501(c)(4) nonprofit membership organization composed of the leadership of many of the largest, private employers in the Kansas City region. Its vision is to achieve regional prosperity for all. The Civic Council exists to accelerate growth in the region's prosperity and quality of life by strategically deploying the personal and corporate resources, influence, and expertise of its members.

The Civic Council advocates for strategic, long-term public policies that support the economic growth and quality of life of the Kansas City region. In 2020, Missouri voters chose to expand healthcare coverage to over 230,000 Missourians with incomes up to 138 percent of the federal poverty level. Business groups throughout Missouri actively supported the passage of Amendment 2, not only because of the benefits of a healthy

workforce, but the benefits Medicaid expansion will contribute to job-creation, economic growth, and inclusive prosperity.

In 2021, the Civic Council is advocating for fully implementing and funding the expansion of Medicaid coverage. Should the Court reverse the trial court's decisions and permit the voter-approved Medicaid expansion to proceed, the ruling would ensure that Missouri takes advantage of all available federal funding, create job growth, utilize savings to existing health programs and increase tax revenue.

The positive economic impact created by Medicaid expansion offers a compelling argument for the Court to reverse the decision of the trial court and order the implementation of the adjusted Medicaid program enrollment passed by Amendment 2.

### **III. Statement of *Amicus Curiae*, Greater Kansas City Chamber of Commerce**

The Greater Kansas City Chamber of Commerce (“KC Chamber”) is a Missouri 501(c)(6) not for profit corporation with more than 1,800 member organizations representing the Greater Kansas City metropolitan area. The KC Chamber is the largest business association in Greater Kansas City, whose mission is “[t]o lead the way to the best KC region,” and the organization is actively engaged in local, state, and federal advocacy on economic development, health equity, and workforce development, among many other issues, to that end.

For more than a decade, Medicaid expansion has been the KC Chamber's highest legislative priority in Missouri. The KC Chamber was, in fact, the first chamber of commerce in the state to publicly support Medicaid expansion and views it as a critical step towards inclusive prosperity for our community – a pillar of the KC Chamber's

strategic plan. Our advocacy in this arena culminated last year when the KC Chamber joined local, statewide, and national business leaders, health systems, and a majority of Missourians by supporting Amendment 2, which revised the Missouri Constitution to expand eligibility within the MO HealthNet program.

The justifications for this support are straightforward. Medicaid expansion will: create a projected 16,330 jobs in Missouri; grow Missouri's gross domestic product by an estimated \$1.6 billion; and increase the state's economic output by a forecasted \$2.5 billion annually. Each of these outcomes intersects with the heart of the KC Chamber's work towards inclusive economic prosperity for Greater Kansas City, but also leads to net new state tax revenue, which directly contradicts the trial court's concern around the availability of appropriated funds for expanded MO HealthNet eligibility.

Further, MO HealthNet eligibility expansion would eliminate wasteful redirection of Missouri taxpayers' dollars to other states that have expanded Medicaid and would offer critical support to under- and un-insured Missourians who would otherwise rely on our health system's most expensive resources for care, costing our business community millions of dollars in annual health insurance premiums.

It is for these reasons, and for the reasons further set forth in this brief, that the KC Chamber now urges this Court to reverse the decision of the trial court and order the expansion of the MO HealthNet eligibility as approved by the voters of Missouri.

#### **IV. Statement of *Amicus Curiae*, Missouri Chamber of Commerce and Industry**

The Missouri Chamber of Commerce and Industry (the “Missouri Chamber”) is the largest business association in Missouri. For nearly a century, the Missouri Chamber has been fighting for Missouri employers in the halls of the State Capitol. Representing more than 40,000 employers, the Missouri Chamber advocates for policies and laws that will enable Missouri businesses to thrive, promote economic growth, and improve the lives of all Missourians.

The Missouri Chamber also advocates for legislative policy and court outcomes that make Missouri attractive to job creators and encourage existing job creators to stay and grow within Missouri. The Missouri Chamber recognizes that Medicaid expansion will help fuel economic growth throughout the state, boosting job creation and expanding our state’s economic output. In supporting Medicaid expansion, the Missouri Chamber views this policy as a means to bolster our economy and expand access to health care for Missourians.

#### **V. Statement of *Amicus Curiae*, Springfield Area Chamber of Commerce**

The Springfield Area Chamber of Commerce (the “Springfield Chamber”) represents more than 1,500 business organizations that employ more than 110,000 people living in and around Missouri’s third-largest city. The Springfield Chamber endeavors to make southwest Missouri a great place to do business through a member- and volunteer-driven process. The Springfield Chamber’s public policy efforts are focused on improving Missouri’s business climate, creating jobs, developing the state’s workforce,

and driving investment in our region and our state. The Springfield Chamber's overall mission is to serve as the principal advocate for business in partnership with the Springfield community.

Medicaid expansion is a key piece of the Springfield Chamber's ongoing efforts and advocacy to support and grow businesses and the economy. Moreover, the Springfield Chamber has been a longstanding supporter of Medicaid expansion in Missouri. As such, the Springfield Chamber, as well as numerous business leaders across Missouri and the nation and the majority of Missourians, supported Amendment 2, which amended the Missouri Constitution to expand the eligibility criteria of the MO HealthNet program.

The expansion of Medicaid to low-income adults in other states has produced economic and health benefits and the Springfield Chamber supports the effort to provide better coverage and increased access to more affordable care to Missourians.

### **CONSENT OF THE PARTIES**

Counsel for Appellants and Counsel for Respondents have consented to the filing of the *amici curiae* brief. Thus, with the consent of all parties, this *amici curiae* brief is filed directly with the Court pursuant to Missouri Supreme Court Rule 84.05(f)(2).

### **JURISDICTIONAL STATEMENT AND STATEMENT OF FACTS**

*Amici* adopt and incorporate by reference the jurisdictional statement and statement of facts set forth in Appellants' brief.

### **STANDARD OF REVIEW**

Construction of a statute is a question of law. *Delta Air Lines, Inc. v. Dir. of Revenue*, 908 S.W.2d 353, 355 (Mo. banc 1995). As such, regarding statutory interpretation, this Court “is not bound by the determinations” of the lower court, but conducts *de novo* review. *Id.*

## ARGUMENT

### I. Reversal of the Decision Below is Appropriate Based on the Plain Language of the Appropriation Bills.

*Amici* agree with Appellants that, based on the plain language of the appropriation bills – House Bills 10 and 11 – there is an extant appropriation for the voter-approved MO HealthNet eligibility amendment to the Missouri Constitution (“Amendment 2”). Appellants are therefore entitled to immediate enrollment, and Respondents (all of which are executive branch agencies) have full authority to enroll Appellants and those similarly situated in the MO HealthNet program. Indeed, the plain language of Amendment 2 does not itself appropriate funds; rather, it merely redefines the eligibility requirements for the MO HealthNet program.

Thus, the proper focus of the instant litigation is on determining whether there was appropriation authority for funding the MO HealthNet program regardless of the scope of newly eligible persons, which there was, as established by the plain language of House Bills 10 and 11. *Amici* further agree with Appellants’ position that legislative intent comes from the plain language of the text and, because the language of House Bills 10 and 11 are not ambiguous and unquestionably fund the entirety of the MO HealthNet program, program enrollment should be adjusted to comply with the amended eligibility requirements of Amendment 2.

The primary rule of statutory interpretation is to give effect to legislative intent as reflected in the plain language of the statute. *Delta Air Lines, Inc. v. Dir. of Revenue*, 908 S.W.2d 353, 355 (Mo. banc 1995). “The construction of statutes is not to be hyper-

technical, but instead is to be reasonable and logical and to give meaning to the statute[.]” *Donaldson v. Crawford*, 230 S.W.3d 340, 342 (Mo. banc 2007). The Supreme Court of the United States has consistently found that interpretive arguments resting heavily on legislative history are inherently skeptical as legislative history provides a “frail substitute[.] for bicameral votes upon the text of a law and its presentment to the [Governor].” *Thompson v. Thompson*, 484 U.S. 174, 191-92 (1988) (Scalia, J., concurring). And Missouri law is clear that “when a statute is clear and unambiguous, extrinsic aids to statutory construction cannot be used.” *Blue Springs Bowl v. Spradling*, 551 S.W.2d 596, 599 (Mo. banc 1977). Indeed, it is only when the plain language of the statute is ambiguous that consideration of “the history of the legislation, the surrounding circumstances, and the ends to be accomplished” is proper. *State ex rel. Zoological Park Subdistrict of the City and County of St. Louis v. Jordan*, 521 S.W.2d 369, 372 (Mo. 1975). However, no matter the considerations, Missouri courts will “not engraft language onto a statute that the legislature did not provide.” *Hill v. Ashcroft*, 526 S.W.3d 299, 309 (Mo. App. 2017) (quotation omitted).

As set forth more fully in Appellants’ brief, the application of these rules to the clear and unambiguous language of the appropriation bills should result in immediate authorization to spend the already-appropriated funds to cover the entire eligible MO HealthNet program population, including those individuals eligible under Amendment 2. Specifically, nothing in the plain text of House Bills 10 or 11 precludes use of the appropriated funds to provide MO HealthNet coverage to individuals whose eligibility arises under Amendment 2. Therefore, because the plain language is clear, Missouri

courts should not use “extrinsic aids to statutory construction,” including consideration of the history or surrounding circumstances of enactment of the legislation. *See Blue Springs Bowl*, 551 S.W.2d at 599. However, to the extent the Court looks to the surrounding circumstances and results stemming from upholding Amendment 2 and the appropriation of funds, we urge the Court to appreciate the highly significant benefits of MO HealthNet’s expansion – which is accompanied by substantial federal government funds – to Missouri’s economy and its business community. *See, e.g., Templemire v. W & M Welding, Inc.*, 433 S.W.3d 371, 381 (Mo. banc 2014), *modified* (May 27, 2014) (explaining that “[i]nsight into the legislature's object can be gained by identifying the problems sought to be remedied and the circumstances and conditions existing at the time of the enactment”).

## **II. The Medicaid Expansion Contemplated by Amendment 2 Will Result in Significant Economic Benefits to the State and Its Economy.**

### ***A. The Contemplated Expansion Will Lead to Cost Savings***

Largely because of increased federal support, the contemplated expansion will likely lead to considerable savings and revenue increases such that the expansion should more – *much* more – than pay for itself. Under Medicaid expansion, the federal government “will pay 90 percent of the cost for a variety of health services that are currently funded either entirely with state general revenue tax dollars, or with a larger portion of state general revenue than expansion will require.” Missouri Budget Project, *Medicaid Expansion Saves State General Revenue in FY 2022* at 1 (Mar. 2, 2021), <https://www.mobudget.org/wp->

content/uploads/2021/03/MedEx\_Saves\_MOGR\_FY22.pdf (“MBP”). This significant match would see the federal government providing the bulk of the cost for items such as mental health services for uninsured Missourians and health care for prisoners incarcerated in state prisons (both currently covered entirely by state funds), as well as health care for Missourians living with disabilities and expectant mothers (both significant costs borne by the state). *Id.*

Based on this substantial increase in federal support, studies have shown that, since the passage of the Affordable Care Act (“ACA”) in 2010, states that were early adopters of Medicaid expansion demonstrated significant “state budget savings and increased revenue.” MBP, *supra*, at 1. Virginia, for example, saved \$421.6 million in the first year of expansion, Arkansas saved \$444 million from 2018-2021, Michigan saved \$1 billion from 2018-2021, and Montana saved over \$50 million. Health Management Associates, *Medicaid Expansion in Missouri – Economic Implications for Missouri and Interviews Reflecting Arkansas, Indiana, and Ohio Experiences* at 9 (Feb. 13, 2020), <https://www.mhanet.com/mhaimages/HMAReport.pdf> (“HMA”). Further, Colorado, Louisiana, and Michigan have reported significant increases in new revenue – over \$100 million, \$103 million, and \$150 million, respectively. MBP, *supra*, at 3.

Missouri doubtlessly would see similar effects and, based on the experience of these early adopting states, Medicaid expansion in Missouri would, again, likely pay for itself because of: (i) savings to existing health programs; and (ii) the increased tax revenue that will result from the influx of federal funds to Missouri. MBP, *supra*, at 1.

The Washington University in St. Louis Center for Health Economics and Policy

(“CHEP”) found that “a Medicaid expansion in Missouri is approximately revenue neutral and could create cost savings . . . of about \$39 million” in Fiscal Year 2020 alone. CHEP, *Analysis of the Fiscal Impact of Medicaid Expansion in Missouri*, at 1 (Feb. 2019), <https://publichealth.wustl.edu/wp-content/uploads/2019/02/Analysis-of-the-Fiscal-Impact-of-Medicaid-Expansion-in-Missouri-IPH.pdf> (“CHEP Report”) at 1. By 2024, the annual savings due to Medicaid expansion are estimated to be about \$932 million. *Id.* at 2. According to the Missouri Budget Project, “federal funding to support expansion will increase personal income in Missouri by \$545 million in the first year.” MBP, *supra*, at 4. This in turn will increase the tax revenue Missouri will be able to collect by an estimated \$32.8 million annually. *Id.*

While Governor Parson, in his 2022 Fiscal Year budget proposal, included *some* of the immediate savings brought by the expansion, he did not include “certain key areas of savings.” *Id.* at 1. For instance, Governor Parson did not include an estimated \$3.17 million reduction in general revenue costs associated with inmates in state-operated corrections facilities. Missouri currently provides health care coverage to such inmates using only state funds, but, under the expanded Medicaid program, most of the costs would be defrayed by federal funds. *Id.*; CHEP Report, *supra*, at 12.

Additional savings would be enjoyed “as a result of changes in how Missourians seek coverage.” MBP, *supra*, at 2. An important shift seen in states that have expanded Medicaid is a reduction in the number of individuals seeking health care coverage based on a disability. *Id.* Specifically, individuals eligible for the expanded Medicaid coverage based on income will no longer need to seek disability coverage, which receives a 65

percent federal match. *Id.* at 3. Thus, the 90 percent federal match available under the expanded Medicaid program equates to a 25 percent reduction in state funds paid towards health care for the disability category of coverage, which will, in turn, lead to significant state savings. *Id.* at 3.

***B. Increased State Funds Can Be Reallocated from Health Care Costs to Other Areas***

Not only is Medicaid expansion in Missouri likely to pay for itself, but the program will likely lead to a surplus of funds that can be reallocated from health care to other areas. For example, Regional Economic Models, Inc. (“REMI”), which models the economic impact of federal and state legislative proposals, estimates that, because of the additional federal funds, between 2022 and 2026 Missouri will enjoy an average of \$506.2 million annually in increased state funds that can be reallocated. REMI, *Economic Impacts of Increased Federal Funding in Missouri Associated with an Expansion of its MO HealthNet Program* at 7 (Apr. 10, 2020), <https://www.remi.com/wp-content/uploads/2020/06/986-Economic-Impacts-of-Increased-Federal-Funding-in-Missouri.pdf> (“REMI Report”); *cf.* OFFICE OF ADMINISTRATION, THE MISSOURI BUDGET: FISCAL YEAR 2022 at 15-13 (2021) (indicating that expansion would only cost the state \$130 million). In fact, REMI puts the total increase in available state funds over this five year period in excess of \$2.5 billion. REMI Report at 7.

As such, *the budgeted number (\$130 Million) used to justify the refusal to expand Medicaid pales in significance to the increased revenues and cost savings that are projected to be enjoyed by the State following such an expansion.*

### ***C. The Contemplated Expansion Will Spur Job Growth and Economic Output***

Studies have also shown significant job growth because of Medicaid expansion. In Louisiana, for example, “in FY 2017, the injection of federal expansion funds created and supported 19,195 jobs (while creating and supporting personal earnings of \$1.12 billion) in sectors throughout” the state’s economy. Kaiser Family Foundation, *The Effects of Medicaid Expansion under the ACA: Studies from January 2014 to January 2020* at 18 (Mar. 17, 2020), <https://files.kff.org/attachment/Report-The-Effects-of-Medicaid-Expansion-under-the-ACA-Updated-Findings-from-a-Literature-Review.pdf> (“KFF”). In FY 2018, Medicaid expansion “supported 14,263 jobs and \$889.0 million in personal earnings.” *Id.* Similarly in Colorado, infusion of federal funds associated with Medicaid expansion created over 31,000 jobs between 2015 and 2016. HMA, *supra*, at 12.

REMI anticipates that, from 2022-2026, the increase in federal funding for Missouri would result in an average *annual* economic output encompassing (i) an increase of 16,630 jobs, with 63.7 percent occurring outside of Kansas City and St. Louis, and 79 percent occurring outside of the health care industries; (ii) 87.8 percent of these newly created jobs being paid real wages of at least \$15 per hour; and (iii) an “increase in the size of the state economy of \$2.5 billion in economic output and \$1.6 billion in gross domestic product, and rise in state personal income of \$1.1 billion.” REMI Report, *supra*, at 3.

***D. Federal Governmental Support Will Greatly Aid in Ensuring Increased Economic Benefits***

Finally, Medicaid expansion will have profound economic benefits to health care institutions and providers – entities central to Missouri’s economy. For example, the report from the Kaiser Family Foundation explains:

Research shows that Medicaid expansions result in reductions in uninsured hospital, clinic, or other provider visits and uncompensated care costs, whereas providers in non-expansion states have experienced little or no decline in uninsured visits and uncompensated care. One study suggested that Medicaid expansion cut every dollar that a hospital in an expansion state spent on uncompensated care by 41 cents between 2013 and 2015, corresponding to a reduction in uncompensated care costs across all expansion states of \$6.2 billion over that period.

KFF, *supra*, at 17.

Additionally, studies show “that Medicaid expansion has significantly improved operating margins and financial performances for hospitals, other providers, and managed care organizations.” *Id.* at 18. In fact, a study published in January 2018 found that “Medicaid expansion was associated with improved hospital financial performance and significant reductions in the probability of hospital closure.” *Id.* With fourteen hospital closures in Missouri since 2014 – four in the St. Louis and Kansas City metropolitan areas, and at least seven of which provided essential services to predominantly rural communities – the economic benefits associated with reducing hospital closures, alone, would be a major fiscal boon for the State. Missouri Hospital Association, *14 Hospital Closures in Missouri* (Aug. 2019), [https://www.mhanet.com/mhaimages/advocacy/Missouri.Hospital\\_Closures\\_0919.pdf](https://www.mhanet.com/mhaimages/advocacy/Missouri.Hospital_Closures_0919.pdf).

## CONCLUSION

The people have spoken. The plain language of the appropriation bills speaks for itself. Legislative intent is best reflected in that plain language. Because the language is not ambiguous, program enrollment should be adjusted consistent with Amendment 2, and the enrollment directed by the people of Missouri should commence immediately.

Moreover, as shown in this brief, MO HealthNet expansion will result in substantial benefits to the state's economy and business community. *Amici* urge the Court to reverse the decision of the court below, and order the implementation of the adjusted Medicaid program enrollment contemplated by Amendment 2, commencing immediately.

Respectfully submitted,

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**CERTIFICATE OF COMPLIANCE AND SERVICE**

The undersigned certifies that this *amici curiae* brief in support of Appellants complies with the limitations of Missouri Supreme Court Rule 84.06(b), and that this brief contains 4,012 words, excluding the cover, this certificate, and the signature blocks, as determined by Microsoft Word. The undersigned further certifies that a copy of the foregoing was filed through the Supreme Court of Missouri's electronic filing system on June 30, 2021, to be served on all counsel of record.

By: /s/ J. Bennett Clark