STATE OF MICHIGAN
IN THE COURT OF APPEALS

MOTHERING JUSTICE, MICHIGAN ONE FAIR WAGE, MICHIGAN TIME TO CARE, RESTAURANT OPPORTUNITIES CENTER OF MICHIGAN, JAMES HAWK, and TIA MARIE SANDERS,

Plaintiffs-Appellees,

v

ATTORNEY GENERAL,

Defendant,

and

STATE OF MICHIGAN,

Defendant-Appellant.
_____/

COA No. 362271

LC No. 21-000095-MM
Hon. Douglas B. Shapiro

AMICI CURIAE BRIEF OF LEGAL SCHOLARS IN SUPPORT OF PLAINTIFFS-APPELLEES

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INTEREST OF *AMICI CURIAE*[1]

Amici, listed below, are teachers and scholars of state constitutional law and the law of democracy. They have researched and published leading articles in these areas of law, and they have a professional interest in promoting a proper understanding of the constitutional and democratic principles at issue in this case.

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[1] Pursuant to MCR 7.212(H)(3), *Amici* state that no counsel for a party authored this brief in whole or in part, no such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief, and no person other than *Amici Curiae*, their members, or their counsel made any such monetary contribution.

[2] Institutional affiliations are provided for identification purposes only.

INTRODUCTION

For more than a century, Michiganders have reserved to themselves the power to make law through the ballot initiative. Their rationale for incorporating the initiative into the Michigan Constitution was simple: to enable the people to govern themselves according to the popular will despite legislative inaction or opposition. In this case, the legislature asserts that it nevertheless remains free to subvert the people's lawmaking efforts by adopting a proposed initiative and then immediately amending or repealing it. That end-run is at odds with the Constitution. When the people of Michigan established the initiative as a check on the legislature, they did not intend for it to be an empty gesture.

Upholding the legislature's "adopt and amend" practice would run counter to sound principles of constitutional interpretation and to the precedent of sibling states in analogous cases. The Michigan Constitution's initiative provision is one manifestation of the document's broader structural commitment to democratic self-rule, and the scope of the legislature's authority here must be understood in that context. The Constitution does not empower legislators—the people's representatives—to aggrandize themselves at the people's expense by subverting the people's reserved lawmaking power. This conclusion finds strong support in Michigan case law and in the jurisprudence of virtually every state with an initiative process. Again and again, courts around the country have rejected legislative encroachments on direct democracy mechanisms. This Court should do the same and affirm the Court of Claims' decision holding that the Michigan Legislature's "adopt and amend" tactic violated Article 2, § 9 of the Michigan Constitution.

ARGUMENT

I. THE MICHIGAN LEGISLATURE'S "ADOPT AND AMEND" TACTIC IS INCONSISTENT WITH THE MICHIGAN CONSTITUTION'S FUNDAMENTAL COMMITMENT TO DEMOCRACY.

From start to finish, the Michigan Constitution recognizes and guarantees the right of the people to govern themselves, both directly through the ballot and indirectly through elected agents—individuals who must act for the people, not against them. These foundational democratic commitments are the Constitution's north star. And here, they offer clear guidance about the scope of the initiative authority set out in Article 2, § 9, and of the legislative power set out in Article 4, § 1. The people have reserved for themselves the power to make law, and the legislature cannot nullify that power through the subterfuge of "adopt and amend."

Consider the Michigan Constitution's overarching structure. *Cf. Davis v Sec'y of State*, 333 Mich App 588, 593; 963 NW2d 653 (2020) (quotations and citations omitted) (observing that constitutional provisions "must be interpreted in the light of the document as a whole"). The Preamble frames the document as one that derives from and serves the people—it is "the people of the State of Michigan" who have "ordain[ed] and establish[ed]" the Constitution to secure to themselves and their posterity "the blessings of freedom." Const 1963, Preamble. The document then begins by spelling out certain basic rights of the people in Article 1, the very first section of which echoes the preamble by affirming that "[a]ll political power is inherent in the people" and that "[g]overnment is instituted for their equal benefit, security and protection." Const 1963, art 1, § 1. Other provisions of Article 1 set forth guarantees that serve as preconditions for democratic self-government, including (among many others) rights to equal protection and nondiscrimination, Const 1963, art 1, § 2; to assemble, consult, instruct representatives, and petition the government, Const 1963, art 1, § 3; and to speak and publish, Const 1963, art 1, § 5.

Next, Article 2 sets parameters for how the people will govern. It expansively defines the electorate to include all adult citizens. Const 1963, art 2, § 1. It vests the state's electors with the right "to be automatically registered to vote" when obtaining an ID, Const 1963, art 2, § 4(1)(d); to register through election day, Const 1963, art 2, § 4(1)(f); and, "once registered, to vote a secret ballot in all elections," Const 1963, art 2, § 4(1)(a), including through "no excuse" absentee voting, Const 1963, art 2, § 4(1)(g). And it expressly declares that these enumerated voting rights set a floor, not a ceiling. *See* Const 1963, art 2, § 4(1)(h) ("Nothing contained in this subsection shall prevent the legislature from expanding voters' rights beyond what is provided herein."). Article 2 also provides for popular control of unsatisfactory representatives by recognizing the people's recall authority, *see* Const 1963, art 2, § 8; *see also* Const 1963, art 4, § 54 (imposing legislative term limits to prevent officials from overstaying their welcome). Most directly relevant here, Article 2, § 9 declares that "[t]he people reserve to themselves the power to propose laws and to enact and reject laws, called the initiative, and the power to approve or reject laws enacted by the legislature, called the referendum." *See also* Const 1963, art 12, § 2 (providing for popularly initiated constitutional amendments).

The Constitution then proceeds in Article 4, § 1 to vest "the legislative power . . . in a senate and house of representatives," but it is plain that this power is circumscribed by the litany of rights and powers already described. Just as the legislature cannot invoke Article 4, § 1 to burden the people's right to assemble or to vote, it also cannot invoke it to undercut the people's reserved power to enact laws. The legislative power simply does not encompass such acts. Article 4, moreover, includes a host of other limitations designed to ensure that legislators remain faithful agents of the people. Among other things, all legislative votes must be recorded and made available to the public, Const 1963, art 4, §§ 17-19, legislative meetings must be open to the public, Const

1963, art 4, § 20, and bills must be limited to a single object and read multiple times before enactment, Const 1963, art 4, §§ 20, 24. Article 4 even takes the trouble to specify that "[t]he style of the laws shall be: *The People of the State of Michigan* enact." Const 1963, art 4, § 23 (emphasis added). In other words, whatever the legislature does must truly be in the people's name. *Cf. Payne v Sec'y of State*, 237 A3d 870, 877 n 5; 2020 ME 110 (2020), quoting *Moulton v Scully*, 111 Me 428, 448; 89 A 944 (1914) (explaining that a similar provision in Maine's Constitution underscored that "the 'people and not the Legislature [are] the real arbiters of the laws to be finally accepted."). More recently, in yet another effort to keep the legislature accountable to the people, the people of Michigan amended the Constitution to shift redistricting authority to an independent commission. *See* Const 1963, art 4, § 6. Plainly, the people of Michigan have taken great pains to ensure that the legislature is dependent on them, and not the other way around.

This is just a partial inventory of the provisions through which the Michigan Constitution enshrines its fidelity to the fundamental democratic principles of popular sovereignty, majority rule, and political equality. Michigan is not alone: states around the nation share similar constitutional provisions, each crafting their founding documents to protect democracy, rein in unresponsive governments, and ensure that the people rule. Michigan is a leader among them. *Cf.* Bulman-Pozen & Seifter, *The Democracy Principle in State Constitutions*, 119 Mich L Rev 859 (2021).

As the Michigan courts have long appreciated, these animating constitutional concepts provide a lens that can bring controversies like this one into focus. It is precisely because the Constitution is a democratic document that the courts construe it "in the sense most obvious to the common understanding" of "the great mass of the people" who ratified it, rather than "look[ing] for any dark or abstruse meanings in the words employed." *Federated Publications, Inc v Mich*

State Univ Bd of Trustees, 460 Mich 75, 85; 594 NW2d 491 (1999), quoting 1 Cooley, Constitutional Limitations (6th ed), p 81. And it is precisely because the provisions of Article 2, § 9 are so central to the constitution's democratic design that the Michigan Supreme Court has rebuffed efforts to "emasculate" the people's reserved initiative and referendum powers. *Mich Farm Bureau v Sec'y of State*, 379 Mich 387, 393; 151 NW2d 797 (1967). Instead, the "constitutional provisions by which the people reserve to themselves a direct legislative voice ought to be liberally construed," *Kuhn v Dep't of Treasury*, 384 Mich 378; 183 NW2d 796 (1971), and should "be saved if possible as against conceivable if not likely evasion or parry by the legislature," *Mich Farm Bureau*, 379 Mich at 393; *see also id*. (describing this as "an overriding rule of constitutional construction").

The "adopt and amend" maneuver at issue in this case is grievously out of step with a properly holistic and democracy-centered reading of the Michigan Constitution. When the people ratified the Constitution in 1963, direct democracy had already been part of state law for half a century. Frustrated with repeated legislative failures to "pass certain legislation for which there was a popular demand," the electorate in 1913 "took matters into its own hands" and secured the initiative through constitutional amendment. *Hamilton v Sec'y of State*, 227 Mich 111, 130; 198 NW 843 (1924) (Bird, J.). The initiative mechanism spelled out in Article 2, § 9 of the new Constitution tracked its predecessor provision in most respects. As before, the provision gave the legislature a chance to enact a proposed initiative "without change or amendment"—a way to save the time and expense of putting the matter to the electorate. There is no evidence that anyone who ratified the 1913 amendment believed that it authorized legislators to adopt an initiative proposal and then immediately amend or repeal it, thus thwarting the people's lawmaking efforts. And at no point between 1913 and 1963 did the legislature attempt an "adopt and amend" tactic. Given

that the people established the initiative to ensure that they could "bring about desired legislation *without the aid of the legislature*," *Hamilton*, 227 Mich at 130 (emphasis added), it is farfetched to think that the provision was commonly understood to be self-defeating. Indeed, less than a decade after its original enactment, Justice Bird wrote that "[a] constitutional provision designed to remove an existing mischief should never be construed as dependent for its efficacy and operation upon legislative will." *Id*.

This appears to have remained the prevailing understanding at the time the new Constitution was considered, and there is no indication that the people meant to produce a different result when they retained their initiative authority in Article 2, § 9. The opinion issued by Attorney General Frank Kelley shortly after the Constitution's ratification provides strong contemporaneous corroboration. He viewed it as "clear"—i.e., not even warranting extended discussion—"that the legislature enacting an initiative petition proposal cannot amend the law so enacted at the same legislative session without violation of the spirit and letter of Article 2, § 9 of the Michigan Constitution." OAG, 1963-1964, No. 4303, p 309 (March 16, 1964). And that is where things stood for the next 50-plus years. Despite having numerous opportunities to do so, the legislature not once tried an "adopt and amend" tactic—until the events that gave rise to this case.

The legislature's constitutional defense of "adopt and amend" essentially boils down to this: The text of Article 2, § 9 doesn't expressly foreclose same-session amendments or repeals, which means they are within the legislature's "plenary" power under Article 4, § 1 (a provision that never uses the word "plenary"). That argument, however, simply ignores the how these provisions fit together. What the people reserved in Article 2, § 9 is a "self-executing" power to make law. *See Wolverine Golf Club v Sec'y of State*, 24 Mich App 711; 180 NW2d 820 (1970),

aff'd, 384 Mich 461; 185 NW2d 392 (1971). The provision reflects the people's desire to ensure that they have a way to effectuate the popular will even in the face of legislative opposition.

When initiatives are proposed, Article 2, § 9 assigns the legislature a straightforward screening role: the legislature can approve the initiative and make it law; it can reject the initiative, which then causes the initiative to be placed on the ballot; or it can reject it and propose an alternative that will also appear on the ballot. Practically, "adopt and amend" is none of these things. Although dressed up like an approval, it functions as a legislative veto on the people's lawmaking authority: The proposed initiative vaporizes, and the people have no opportunity to enact it at the ballot box. If Article 2, § 9 is indeed "a reservation of legislative authority which serves as a limitation on the powers of the legislature," *Woodland v Mich Citizens Lobby*, 423 Mich 188, 215; 378 NW2d 337 (1985), this sort of legislative bait and switch does not fly. Michigan's constitutional structural prohibits the legislature—the people's agents—from negating the people's authority to self-govern through statutory initiative.

II. COURTS IN OTHER STATES HAVE REJECTED "ADOPT AND AMEND" AND SIMILAR LEGISLATIVE ENCROACHMENTS ON THE BALLOT INITIATIVE.

Beyond flouting the democratic commitments of the Michigan Constitution, the legislature's "adopt and amend" effort is also out of step with the practice and precedent of other states. A number of other states reserve initiative and referendum powers to the people using constitutional language similar to Michigan's. *See* Bulman-Pozen & Seifter, *The Democracy Principle in State Constitutions*, 119 Mich L Rev at 876-877 (discussing and collecting common features of states' constitutional initiative provisions). And, as in Michigan, virtually all of these states have jurisprudence requiring that these popular lawmaking provisions be liberally construed to effectuate their purposes. *See id.* at 924 n 393. Faced with legislative efforts to stifle the initiative or referendum, courts have repeatedly stepped in to safeguard the people's reserved lawmaking

power. Because these cases involve similar constitutional provisions and similar tensions between the people and their representatives, they offer insight into the proper interpretation of the Michigan Constitution. *Cf. id.*, at 863 ("[P]rodemocratic constitutional responses in one state readily inform those in another.").

A. The most analogous cases from other states all come out against legislative subversion of the initiative power.

Tellingly, although legislatures frequently seek to narrow the people's initiative and referendum powers, only a few have even attempted to circumvent those powers using "adopt and amend" or a closely analogous tactic. As far as *Amici* are aware, every state high court to address such legislative action has deemed it an unconstitutional infringement of the people's right to legislate.

Most recently, the Washington Supreme Court in 2018 rejected an attempt by the Washington Legislature to use an "*amend* and adopt" maneuver. *Eyman v Wyman*, 191 Wash2d 581; 424 P3d 1183 (2018). Washington, like Michigan, has an indirect initiative process that allows the people to present initiative proposals to the legislature for approval and allows the legislature to offer an alternative proposal for the people's consideration. *Id.* at 584.

In an effort to defeat a police reform initiative, the Washington Legislature enacted the initiative, but—just before doing so—passed a bill purporting to amend the initiated measure prospectively. *Id.* The Washington Supreme Court unanimously agreed that this was unlawful, a common thread through multiple opinions that diverged mainly on the question of remedy. Describing the amendment as a violation of the petitioners' constitutional right to initiative and thus void, four of the nine justices explained that "[i]f the legislature could amend initiatives immediately upon enactment, this carefully drawn balance between the legislature and the people would be destroyed"—a result inconsistent with the court's duty to "liberally construe" the right

of initiative. *Id.* at 601, citing *In re Est of Thompson*, 103 Wash2d 292, 294-95; 692 P.2d 807 (1984). In their view, only the unamended initiative had been properly enacted, and it was now binding law. *Id*. at 598-608. Four more Justices agreed that the legislature could not lawfully enact and amend a proposed initiative during the same legislative session but believed that the original initiative proposal and the legislature's amended version should both be submitted to the people. *See id*. at 623 (Stephens, J., dissenting) (explaining that the legislature had improperly circumvented the "constitutional promise of ballot access"); *Id.* (Fairhurst, C.J., dissenting). The final member of the court likewise rejected the legislature's action, reasoning that same-session adoption and amendment flouted the constitutional requirement that proposed initiatives be adopted "without change or amendment." Casting the decisive vote on remedy, he concluded that the proposed initiative (but not the amended version) should go to the people for a vote. *Id.* at 614-17 (Madsen, J., concurring/dissenting).

In 2015, the Missouri Supreme Court similarly invalidated an attempt by the Missouri General Assembly to nullify an initiative before it went to the voters. *Earth Island Inst. v Union Elec Co*, 456 SW3d 27 (Mo, 2015). At issue was an initiative requiring electric utilities to generate more electricity with renewable energy. *Id.* at 30. Unlike in Michigan, initiatives in Missouri go directly to the voters rather than being first presented to the legislature. But before the vote took place, the Missouri legislature passed a bill preemptively exempting electric utilities from the initiative's renewable energy targets. *Id.* at 30-31. Voters later approved the initiative, and a utility then invoked the legislature's preemptive law to claim an exemption. At that point, the initiative's proponents filed a lawsuit claiming that the preemptive law was unconstitutional.

The Missouri Supreme Court agreed. It held that the legislature cannot "render meaningless" the people's reserved lawmaking powers by negating an initiative in whole or in part

before it is submitted to the electorate. *Id*. at 36. The court explained that "[s]uch unilateral, preemptive action by the legislature serves as an end run around the constitutionally protected right of the people of Missouri to enact legislation by ballot initiative." *Id.* at 34-35.[3]

Older rulings are equally critical of legislative efforts to frustrate popular lawmaking. In 1948, the Maine Supreme Judicial Court rejected the Maine legislature's attempt to circumvent a requirement in the Maine Constitution that any legislative alternatives to pending initiatives be submitted to the voters. *Farris ex rel Dorsky v Goss*, 143 Me 227; 60 A2d 908 (1948). Maine has an indirect initiative process similar to Michigan's. The people can present an initiative to the legislature for approval, and if the legislature enacts the proposal, then it is not submitted to voters. *Id.* at 228-29. If the legislature does not enact the initiative in its original form, then it goes to the electorate along with any legislatively proposed alternative. *Id.* at 229.

In *Farris*, an initiative seeking to place certain restrictions on organized labor had been presented to the Maine Legislature. *Id.* at 228. The legislature did not enact it in its original form, and it was therefore certified for submission to the voters. *Id.* at 229. However, during the same session, and before the initiative was voted upon, the legislature enacted a separate labor relations bill that addressed some of the same types of restrictions as the initiative did, but in a different manner. *Id.* A labor organization contended that, even though the legislature had not cast its bill

[3] The Missouri Supreme Court did note that once an initiative has been voted upon and approved by the people, the Missouri General Assembly is "free to amend or repeal it." *Earth Island Inst*, 456 SW3d at 35. But the Missouri Constitution lacks limits on post-approval amendments similar to those spelled out in Michigan's Constitution. *See* Const 1963, art 2, § 9, fifth paragraph ("no law adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors unless otherwise provided in the initiative measure or by three-fourths of the members elected to and serving in each house of the legislature.")

as a "substitute" for the initiative, it should nevertheless be deemed an alternative proposal that had to go to the voters alongside the initiative and not treated as binding law. *Id.*

The Maine Supreme Judicial Court agreed. *Id.* at 234. The court wrote that, under the Maine Constitution, the people's reserved right "to enact legislation and approve or disapprove legislation enacted by the legislature is an absolute one and cannot be abridged directly or indirectly by any action of the legislature." *Id*. at 231. According to the court, "[n]either by action nor by inaction can the legislature interfere with the submission of measures as so provided by the constitution." The court, moreover, declined to accept the legislature's characterization of the measure at face value and instead looked to "what it is in fact." *Id*. at 232.

The Massachusetts Supreme Judicial Court later confronted a related form of legislative mischief. *See Buckley v Sec'y of Commw*, 371 Mass 195; 355 NE2d 806 (1976). Massachusetts, again like Michigan, provides a mechanism for presenting initiatives to the legislature for approval, and allows the legislature to offer its own substitute proposals. *Id.* at 199-200. Unlike Michigan, the Massachusetts Constitution includes an added wrinkle: if the legislature's substitute wins, then the people are prohibited from presenting another initiative on that topic for six years. *Id.* After receiving an initiative it opposed—one that sought to prohibit private firearms ownership—the legislature sought to activate the six-year bar on further gun-related initiatives by offering a relatively uncontroversial "substitute." Specifically, the legislature's proposal merely established firearm sentencing enhancements for certain crimes. *Id.* at 197. Rejecting this ploy, the Court held that the "language and structure" of the state constitution's initiative provision "demand[ed] that a legislative substitute for an initiative petition must offer a true alternative," not one that "departs from the basic purpose of the initiative petition." *Id.* at 200. The Court explained that holding otherwise would "countenance the emasculation of the initiative petition," "fly in the face of the

evident intent of the distinguished members of the Constitutional Convention who prepared the way for the passage of [the initiative] by the people," and "interfere with the ability of the people to declare their position on the basic question originally proposed." *Id*. at 202-03.

B. State courts in initiative states regularly strike down procedural burdens imposed upon the initiative process by state legislatures.

A broader body of case law across the country also underscores the state constitutional commitment to safeguarding the people's initiative power. Rather than pursue tactics as brazen as "adopt and amend," legislatures more commonly seek to encumber initiatives and referenda in less direct ways. These encumbrances include hurdles such as onerous signature requirements or limits on the timing of petition circulation. Significantly, courts in Michigan and around the country regularly invalidate such measures, even when the interference with the people's lawmaking power may not be as palpable as it is here. These precedents recognize the judiciary's important role in safeguarding the vitality of direct democracy mechanisms, and they strongly support the repudiation of "adopt and amend."

Consider first the Michigan Supreme Court's decision earlier this year affirming this Court and holding that a law capping the number of allowable initiative and referendum petition signatures from each congressional district violated the Michigan Constitution. *League of Women Voters of Mich v Sec'y of State*, 508 Mich 520; 975 NW2d 840 (2022). The Supreme Court emphasized that Article 2, § 9—the same provision at issue here—is "self-executing" and the power it reserves to the people "shall not be curtailed or any undue burdens placed thereon." *Id*. at 540-42 (quotations marks and citations omitted). And the Court rejected a plenary power claim akin to the one the legislature advances here. Just because the Constitution did not expressly bar a district-level signature requirement did not mean that the legislature had the power impose one.

Instead, as the Court understood, Article 2, § 9 precludes the legislature from act in ways that undercut the people's authority "to enact and reject laws."

Beyond Michigan, recent rulings from other states embrace similar principles. Last year, the Idaho Supreme Court addressed a law that (as in Michigan) set a geographic distribution requirement for signatures and another law that delayed the effective date for voter-approved initiatives. *See Reclaim Idaho v Denney*, 169 Idaho 406, 412; 497 P3d 160 (2021). Applying a provision of the Idaho Constitution similar to Article 2, § 9, the Court described the initiative and referendum powers as fundamental rights of the people. *Id.* at 412, citing Idaho Const, art III, § 1 (providing that "[t]he people reserve to themselves the power to propose laws, and enact the same independent of the legislature" and authorizing the legislature to enact laws establishing the "conditions" and "manner" for the exercise of that power). The court went on to reject both laws, holding that the Idaho Legislature "acted beyond its constitutional authority and violated the people's fundamental right to legislate directly." *Id.* at 426-27. The court emphasized that, by "reserv[ing]" the right to propose and enact laws, the people had "ke[pt] back for themselves a portion of the total legislative power they granted to the [legislature]." *Id*. at 428. The court lamented "an unmistakable pattern by the legislature of constricting the people's initiative and referendum powers after they successfully use it." *Id*. at 432.

Even more recently, the Arizona Supreme Court held earlier this month that the Arizona Secretary of State's procedures to implement an out-of-state circulator registration requirement violated the people's state constitutional right to engage in the initiative process. *Leibsohn v Hobbs*, __ Ariz __; __ P3d __; 2022 WL 4352090 (2022). Opponents of an initiative proposing campaign finance disclosure requirements sought to invalidate signatures that they claimed had been gathered in violation of the Secretary's rules. The Court, however, found that it was

"impossible [for circulators] to strictly comply with" the Secretary's elaborate procedures and that enforcing the procedures would thus "unreasonably hinder or restrict" the people's "constitutionally guaranteed right to engage in the initiative process." *Id.*, 2022 WL 4352090 at *7. To invalidate the challenged signatures, the Court wrote, "would be tantamount to blessing a trap laid for unwary sponsoring committees." *Id.*

Along similar lines, the Missouri Supreme Court this year considered two laws that, in practice, reduced the time that referendum petitioners had to collect signatures from 90 days to as little as 39 days. *No Bans on Choice v Ashcroft*, 638 SW3d 484 (Mo, 2022). In response to a claim that these laws interfered with the people's constitutional right to referendum, the State insisted that they were "reasonable implementations" of the process as authorized by the Missouri Constitution. The Missouri Supreme Court disagreed and invalidated the laws. Like the people of Michigan, the people of Missouri had reserved to themselves the referendum power—a power, the court wrote, which "ensures that those who have no access to or influence with elected representatives may take their cause directly to the people," and also "serve[s] as a check on the legislature." *Id.* at 489 (quotation marks and citations omitted). The Court explained that all legislation to implement the referendum "must be subordinate to the constitutional provision and in furtherance of its purposes, and must not … attempt to narrow or embarrass it." *Id.* (quotation marks and citations omitted). The Court concluded that, by so significantly cutting back on the signature collection window, the laws unconstitutionally "interfere[d] with or impede[d]" the right of referendum. The Court's bottom line is equally applicable here: "the legislature must not be permitted to use procedural formalities to interfere with or impede this constitutional right that is so integral to Missouri's democratic system of government." *Id.* at 492.

CONCLUSION

For the foregoing reasons, *Amici* respectfully urge this Court to affirm the Court of Claims' decision holding that the Michigan Legislature's "adopt and amend" tactic violated Article 2, § 9 of the Michigan Constitution.

Dated this 30th day of September, 2022.

Respectfully submitted,

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WORD COUNT CERTIFICATION

I hereby certify that this brief contains 4,615 words in the sections covered by MCR 7.212(C)(6)-(8).

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