

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2024-014129

07/12/2024

HONORABLE SCOTT MINDER

CLERK OF THE COURT
J. Holguin
Deputy

LIVING UNITED FOR CHANGE IN ARIZONA, JAMES E BARTON II
et al.

v.

ADRIAN FONTES, et al.

KAREN HARTMAN-TELLEZ

THOMAS J. BASILE
DAVID ANDREW GAONA
CLINTEN N GARRETT
JUDGE MINDER

ORDER DENYING APPLICATIONS FOR PRELIMINARY INJUNCTION AND
DECLARATORY JUDGMENT RELIEF

On June 5, 2024, Plaintiffs Living United for Change in Arizona, Victory PAC, Ms. Gomez, and Mr. De Los Santos asked this Court to declare House Concurrent Resolution 2060 unconstitutional for failure to abide by the Arizona Constitution's single-subject rule in Article IV, part 2, section 13. One day later, Plaintiffs Poder in Action, Inc., Phoenix Legal Action Network, and Florence Immigrant & Refugee Rights Project asked the Court to do the same. All plaintiffs originally sought a preliminary injunction. The parties agreed to consolidate the two matters, forego a separate hearing on the preliminary injunction, and resolve both complaints with a trial on the merits consisting only of legal argument. The Court reviewed Plaintiffs' complaints and the parties' briefs and heard argument from the parties on July 8, 2024.

Because all provisions of HCR 2060 relate to one general subject—"responses to harms related to an unsecured border"—and because Plaintiffs have not met their burden to overcome Arizona's presumption of constitutionality, the Court finds that HCR 2060 satisfies the Arizona

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Constitution's single-subject rule. Plaintiffs' applications for preliminary injunction and the relief sought in their verified complaints are denied.¹

Factual Background

On June 4, 2024, the Arizona State Legislature passed House Concurrent Resolution 2060, or the "Secure the Border Act," for placement on the November 2024 general election ballot. Titled "AN ACT AMENDING TITLE 1, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 1-503 AND 1-504; AMENDING TITLE 13, CHAPTER 34, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3424; AMENDING TITLE 13, CHAPTER 38, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 35; AMENDING TITLE 23, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 23-215; RELATING TO RESPONSES TO HARMS RELATED TO AN UNSECURED BORDER," the resolution calls the People of Arizona to vote on a single package of laws consisting of:

1. Prohibiting any person "not lawfully present in the United States" from "knowingly apply[ing] for a federal, state, or local public benefit by submitting a false document" to the administrator of that benefit, and creating a class 6 felony for doing so; *and*
2. Requiring any state administrative agency handling a public benefit request from someone who is "not a citizen or national of the United States" to use the "Systematic Alien Verification for Entitlements Program that is used by the United States Citizenship and Immigration Service," or any successor program from the Department of Homeland Security, to validate the documents provided by the applicant and to verify the applicant's eligibility for benefits; *and*
3. Creating a class 2 felony with enhanced sentences for any "person who is at least eighteen years of age" who knowingly sells a drug containing fentanyl that "causes the death of another person" unless the person proves "that the fentanyl and its precursor chemicals were either manufactured in the United States or were lawfully imported into the United States;" *and*
4. Creating a class 1 misdemeanor (or class 6 felony for a repeat offender) "for a person who is an alien to enter or attempt to enter this state directly from a foreign nation at any location other than a lawful port of entry" unless the person can prove that "[t]he federal government has granted the [person] lawful presence in the United States or asylum" or that the person did not violate 8 U.S.C. § 1325(a); *and*

¹ The Court is aware from the filings that Plaintiffs plan future challenges to HCR 2060's constitutionality beyond the single-subject rule. This order only addresses HCR 2060's compliance with the single-subject rule.

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5. Creating a class 4 felony for “refusal to comply with a court order to return to a foreign nation.”

Pls.’ Appl. for Prelim. Inj., June 11, 2024 (“Poder Appl.”) at Ex. 1.

Section 2 of HCR 2060 declares that “a public safety crisis is occurring in Arizona, caused by transnational cartels engaging in rampant human trafficking and drug smuggling across this state’s southern border.” It further describes various numbers of immigrants crossing and the amounts of fentanyl seized at the United States’ Southwest border. HCR 2060 further states that “fentanyl is primarily responsible for an increasing number of overdose deaths in Arizona” and that “[m]any individuals who enter the United States unlawfully are enticed by smugglers with promises of economic incentives.” According to Section 2, the Legislature believes “a holistic approach is required to deter human trafficking and drug smuggling into Arizona by” doing three main things: “[e]mpowering law enforcement to protect the public[,]” “[r]educing the incentives for illegal immigration[,]” and “[p]unishing criminals who fuel the crisis” Poder Appl. at Ex. 1.

The Legislature took up aspects of HCR 2060 prior to its passage. Senate Bill 1231, for example, passed the Legislature but was vetoed by the governor on March 4, 2024, and created a crime for “illegal entry from a foreign nation.” House Bill 2820 contained a version of the “lethal fentanyl” crime in HCR 2060 that, according to its words, “target[ed] the drug traffickers who are responsible for causing” fentanyl overdose deaths. House Bill 2821 contained an immunity provision now present in HCR 2060. House Bill 2748 permitted a magistrate to order and require a person to be returned to the foreign nation from which they attempted to enter. None of these bills became law. Pls.’ Verified Compl., June 5, 2024 (“LUCHA Compl.”) at ¶¶ 18-24; Poder Appl. at Exs. 3-7.

Although the parties stipulated that each plaintiff has standing to bring these claims, the Court, out of an abundance of caution, makes the following findings, based on the verified complaints. *See* Stipulation, June 12, 2024. Living United for Change in Arizona is a non-partisan, nonprofit membership organization based in Arizona and seeking social, racial, and economic justice. Poder in Action is an Arizona nonprofit organization that develops organizers, civic advocacy, and movements to advance people of color and working-class communities and to disrupt and dismantle systems of oppression. Both LUCHA’s and Poder’s memberships would be uniquely affected by the passage of HCR 2060 and would see an increase in the need for, and the operating costs of, its programs and services. Phoenix Legal Action Network is an Arizona nonprofit that supports justice for the local immigrant community by providing free immigration legal services. Florence Immigrant & Refugee Rights Project is also an Arizona nonprofit that provides legal and social services to detained adults and children facing removal proceedings and to others not detained. Passage of HCR 2060 would cause confusion to PLAN, the Florence Project, and their respective clients as to the state of immigration laws in Arizona, and would

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require additional resources or termination of existing client relationships. Victory PAC is a political action committee that would raise and spend funds in opposition to HCR 2060's passage should it remain on the ballot. Ms. Gomez, Executive Director of LUCHA and Chair of Victory PAC, intends to vote in the 2024 General Election and would therefore vote on HCR 2060 if it appears on the ballot. Oscar De Los Santos serves in the Arizona House of Representatives and voted there on HCR 2060. All plaintiffs claim an uncontested impact on their "rights, status or other legal relations," and therefore, have standing under Ariz. Rev. Stat. § 12-1831, *et seq.*

All of the above permits this Court to review and decide this dispute under Ariz. Rev. Stat. § 19-161(A). *See also Hoffman v. Reagan*, 245 Ariz. 313, 315 (2018) (courts may address single-subject requirement challenges prior to elections).

Legal Principles

"Every act shall embrace but one subject and matters properly connected therewith[.]" Ariz. Const. art. 4, pt. 2, § 13. Known as the single-subject rule, section 13 aims "to prevent 'log-rolling,' or combining different measures into one bill so that a legislator must approve a disfavored proposition to secure the passage of a favored proposition." *Hoffman*, 245 Ariz. at 316 (citation omitted).

When analyzing a referendum, the single subject rule "should be interpreted liberally so as not to impede or embarrass the legislature . . . but not so 'foolishly liberal' as to render the constitutional requirements nugatory." *Litchfield Elementary Sch. Dist. No. 79 of Maricopa Cnty. v. Babbitt*, 125 Ariz. 215, 224 (1980) (citations omitted). "In applying the single subject rule, a legislative subject entails all matters having a logical or natural connection." *Ariz. Sch. Bds. Ass'n, Inc. v. State*, 252 Ariz. 219, 227 (2022) (citations and quotations omitted). Those matters "must be essential to the accomplishment of one main objective." *Id.* "All that is necessary is the act should embrace some one general subject: and by this is meant, merely, that all matters treated of should fall under some one general idea." *Litchfield*, 125 Ariz. at 224 (citation omitted). In other words, "compliance with the rule requires that all matters treated . . . should fall under some one general idea, be so connected with or related to each other, either logically or in popular understanding, as to be parts of, or germane to, one general subject." *Ariz. Sch. Bds. Ass'n*, 252 Ariz. at 227 (citation and quotations omitted).

"An act violates the rule if it includes 'dissimilar and discordant subjects that by no fair intendment can be considered as having any legitimate connection with or relation to each other.'" *Ariz. Sch. Bds. Ass'n*, 252 Ariz. at 227-228 (citation omitted). An act that violates the single-subject rule is void in its entirety because no mechanism exists to discern the primary subject of the act. *Id.* at 228 (citing *Litchfield*, 125 Ariz. at 226).

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As the LUCHA application observed, the Arizona cases applying the single-subject rule tend to cover the ends of the spectrum and “leave a significant gap for the Court’s consideration.” LUCHA Pls.’ App. For Prelim. Inj. at 6. A brief review of the caselaw highlights the general principles and raises questions about how broadly or narrowly the “subject” must be defined and how tightly the “matters [are to be] properly connected therewith” under Ariz. Const. art. 4, pt. 2, § 13. This is not a complete recitation of all Arizona cases on the single-subject rule.

In 2022, our Supreme Court held that SB 1819 violated the single-subject rule. There, SB 1819 involved “fifty-two sections and span[ned] approximately thirty distinct subjects, including matters ranging from dog racing, the lottery, voter registration, election integrity, the Governor’s emergency power, the Board of Trustees’ duties and powers, the definition of ‘newspaper,’ political contributions, management of the state capital museum, and COVID-19.” The State argued that the topics all fell within “budget procedures” and therefore met the single-subject rule’s requirements. The Supreme Court disagreed, holding that the contested sections were “devoid of any reference or significance to the budget procedure.” *Ariz. Sch. Bds. Ass’n.*, 252 Ariz. at 228. The Court did not discuss, however, the proper result if all bills actually did have some reference to budget procedures, even if all thirty subjects were otherwise discordant.

Four years prior, the Supreme Court determined that HCR 2007 satisfied the single-subject rule. *Hoffman*, 245 Ariz. at 317. That resolution amended two provisions of the Citizens Clean Elections Act by prohibiting the transfer of clean elections funds by candidates to political parties and by requiring review of the Commission’s rule-making process by the Governor’s Regulatory Review Counsel. That both provisions related to the CCEA was sufficient to find the act constitutional. *Id.* at 316-17. In sum, an act’s provisions need not all relate to the same process, prong, or subsection if they relate to the same subject.

In *Knapp v. Miller*, the Court of Appeals affirmed an order suspending that plaintiff’s driver’s license. 165 Ariz. 527, 534 (Ct. App. 1990). There, the plaintiff challenged the act, titled “Relating to Transportation” and containing a number of substantive and procedural items related to DUI offenses, including testing, license suspension, and hearings, under the single-subject rule. The Court held that the title “generally embraced the one subject of transportation and expressly referred to the suspension of the driver’s license of a person whose breath test results indicated a BAC of 0.10 or more.” *Id.* The broad subject of “transportation” did not change the outcome when the specific provisions were all listed and related to DUI offenses.

In 1988, the Court of Appeals denied a constitutional challenge to an act increasing punishment for dangerous and sexual crimes against children. The act established expedited proceedings, enhanced punishments, defined offenses, addressed admissibility of recorded statements for child witnesses, and required fingerprinting for certain employment involving children. The Court held that the additions and amendments all dealt with “crimes against children,

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prosecution of crimes against children, and the protection of children” and other revisions to make existing laws consistent with the new provisions. This was a sufficient connection between the subjects under the single-subject rule. *State v. Wagstaff*, 161 Ariz. 66, 69 (Ct. App. 1988).

Five years earlier, the same Court held that “marital and domestic relations” was an appropriate subject to encompass different provisions and satisfy the single-subject rule. *Sample v. Sample*, 135 Ariz. 599, 603 (Ct. App. 1983). There, the challenger argued that the retroactive application of House Bill 2238 establishing quasi-community property law in Arizona violated the single-subject rule. That bill contained provisions relating to definitions, procedures, and sentencing for domestic violence offenses, preliminary injunctions for marriage dissolutions, financial support for mentally or physically disabled children after age 18, restoration of maiden names, and modification of child custody orders. Recognizing that “liberal construction is to be accorded legislation when challenged under the . . . one-subject rule,” the Court held that all the subjects, even the crimes, were “reasonably related.” *Id.*

Finally, in 1980, the Court of Appeals held unconstitutional a law regarding site selection for a prison. The law that also addressed executive aircraft for the Department of Public Safety, a mobile dental clinic to be operated by the Dental Health Bureau, a grant to the board of Dental examiners, an index for the Corporation Commission, and capital appropriations to the Department of Corrections for various purposes. *Litchfield*, 125 Ariz. at 225. There, the subject “relating to state government,” was too broad and contained “miscellany” and “multiple subject matter.” *Id.* at 225, 226 (“every act which the legislature passes is an act relating to state government”) (quotations omitted).

This Court bears in mind that “[n]o task in the adjudication of civil controversies is more grave than passing upon the constitutionality of legislation.” *Litchfield*, 125 Ariz. at 223. And though this Court must determine constitutionality as a matter of law, “there is a strong presumption supporting the constitutionality of a legislative enactment.” *Gallardo v. State*, 236 Ariz. 84, 87 (2014), *Litchfield*, 125 Ariz. at 223. That strong presumption must be overcome by the party challenging the constitutionality of a legislative act. *Litchfield*, 125 Ariz. at 223.

Analysis

1. The Subject of HCR 2060 is “Responses to Harms Relating to an Unsecured Border.”

This Court finds that the HCR 2060’s subject is “responses to harms relating to an unsecured border.”² Those words appear in the act’s title. Poder Appl. at Ex.1. And Article 4,

² This Court accepts, for purposes of this challenge, that the border is “unsecured.” The Legislature found as such and Plaintiffs do not appear to challenge this categorization.

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Part 2, Section 13 of Arizona’s Constitution requires that the subject of the legislation be conveyed within the title of the act. *Ariz. Sch. Bds. Ass’n*, 252 Ariz. at 226. The Court declines to adopt the intervenors’ other suggested subject: “smuggling at the border.” That concept appears in HCR 2060’s text but not in its title. Plaintiffs, in their applications, do not define the act’s subject explicitly.

The subject is broad. *See Wagstaff*, 161 Ariz. at 69 (“Subject is to be given a broad and extended meaning to allow the Legislature full scope to include in one act all matters having a logical or natural connection.”) (citation omitted). But it is not “foolishly” so. Arizona’s courts have held that “relating to state government” was an over-inclusive subject, but “relating to marital and domestic relations,” “protection of children,” and “transportation” were not. *Compare Litchfield*, 125 Ariz. at 225-226 with *Sample*, 135 Ariz. at 603, *Wagstaff*, 161 Ariz. at 69 and *Knapp*, 165 Ariz. at 527.

Plaintiffs disagree and claim that HCR 2060’s subject is broader than those of acts previously held constitutional. Plaintiffs differentiate cases like *Sample* and argue that an “unsecured border” encompasses more than “domestic relations.” The Court disagrees. “Marital and domestic relations” is a far-reaching topic, large enough to include aspects beyond those addressed in *Sample* like adoptions, severances, child protective services, spousal support, probate and wills, and tax or other financial issues. This Court finds that “responses to harms relating to an unsecured border” is no broader than “domestic relations” from *Sample* or “protection of children” in *Wagstaff* or “transportation” from *Knapp* and more specific than “state government” from *Litchfield*.

2. The Provisions of HCR 2060 Reasonably Relate to the Subject of “Responses to Harms Relating to an Unsecured Border.”

The Court finds that HCR 2060’s provisions all “fall under . . . one general idea” which is “responses to harms relating to an unsecured border.” *Hoffman*, 245 Ariz. at 316. Four of the five provisions relate to the presence, verification, benefits, and return of people who cross the border without legal permission. Those four provisions are all deterrents to, or enforcement methods for, crossing the border without legal permission. Logic and popular understanding shows that those items “are parts of, or germane to” responses to harms relating to an unsecured border. *Ariz. Sch. Bds. Ass’n*, 252 Ariz. at 227. During the July 8, 2024, hearing, the Poder plaintiffs agreed that an act containing just those four provisions would likely satisfy the single-subject rule.

The fifth provision—a crime for the sale of “lethal fentanyl”—is also “reasonably related” to the subject. *See Hoffman*, 245 Ariz. at 316 (“To comply with the single subject rule, however, the [provisions] need only be reasonably related.”) (quoting *Sample*, 135 Ariz. at 603). The Legislature made explicit findings about the dangers of fentanyl and the impact of the

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transportation of fentanyl over the border, including the enticement of people to cross the border without legal permission. Poder Appl. at Ex. 1. This Court has no factual basis to doubt, and Plaintiffs have shown no reason to question, the deterrent effect of the proposed “lethal fentanyl” crime. Entry of people and of drugs into Arizona through the border are “logically or in popular understanding” connected, which is what the single-subject rule requires. *See Ariz. Sch. Bds. Ass’n*, 252 Ariz. at 227 (citation and quotations omitted).³

Prior cases where Arizona courts have found disparate provisions to be sufficiently tied to a single, broad subject dictate this result.⁴ For example, a law involving criminal penalties for domestic violence, which can involve both family and non-family members, was deemed sufficiently connected to laws that (i) made quasi-community property laws retroactive, (ii) permitted “child support” for a disabled adult, and (iii) concerned name changes because those provisions all related to the broad category of “domestic relations.” *Sample*, 135 Ariz. at 603. Despite their disagreement with the analysis in *Sample*, the Poder Plaintiffs agree with *Sample*’s conclusion: “domestic relations” is sufficiently limited in scope. Poder Reply at 6. The “[l]iberal construction . . . accorded legislation” in *Sample* and other cases must be applied to HCR 2060. And that ties all provisions in HCR 2060 to its single subject.

Plaintiffs warn that subjects like “border security” could be used to package nearly anything if the Legislature articulates a connection. This Court recognizes that risk, as did counsel for the Legislative Intervenors, but disagrees that the mere possibility that HCR 2060’s subject *could* relate to far more requires the Court to find this act unconstitutional. The Legislature has not included in HCR 2060 the miscellany that our Supreme Court has found violative of the single-subject rule.

3. Plaintiffs Have Not Met Their High Burden to Show a Violation of the Single-Subject Rule.

Plaintiffs claim that HCR 2060 violates the single-subject rule in at least three ways: (1) the criminal penalty for lethal fentanyl is logically its own separate and distinct subject, (2) the criminal penalty for lethal fentanyl affects more than people who cross the border without legal permission, and (3) HCR 2060 is a prime example of log-rolling. The Court disagrees and finds

³ The Court does not base its conclusions on the affirmative defense created for the sale of fentanyl created in the United States. While this Court questions the practical impact of the defense, that portion of the law is unnecessary to conclude that the “lethal fentanyl” crime is sufficiently connected to the single subject at issue here.

⁴ The Court declines Plaintiffs’ urging to rely on rulings from other states’ courts because those states’ single-subject rules differ from Arizona’s. The Court also declines to seek guidance from Arizona law on the separate-amendment rule because that rule applies a different test.

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that Plaintiffs have not met their burden to overcome the “strong presumption supporting the constitutionality of a legislative enactment” because they have not shown that HCR 2060 includes “dissimilar and discordant subjects that by *no fair inditement* can be considered as having *any legitimate* connection with or relation to each other.” *Hoffman*, 245 Ariz. at 316, *Litchfield*, 125 Ariz. at 228 (emphasis added).

First, Plaintiffs claim the Legislature has used HCR 2060 to refer unrelated laws to the People of Arizona under the auspices of an “unsecured border” and that the fentanyl provision is not connected to the rest of the act. Plaintiffs urge the Court to reject the Legislature’s “holistic approach” to border security because a “holistic approach” involves disparate subjects. Plaintiffs implore the Court to look to the substance of the HCR 2060 to make that determination.

That is what the Court has done. The single-subject rule permits the Legislature to combine “matters properly included therewith” to address a problem. Plaintiffs complain—but do not show—that the Legislature “crammed” dissimilar laws into a single referendum. The Legislature, however, made explicit findings, *Poder Appl.* at Ex 1, p. 2., that these provisions are “required” to address the harms. *See Ariz. Sch. Bds. Ass’n*, 252 Ariz. at 227 (matters at issue “must be essential to the accomplishment of one main objective”) (citation omitted). That is sufficient under Arizona law to tie all the provisions together under the subject of “responses to harms related to an unsecured border.”

Second, Plaintiffs argue that the “lethal fentanyl” crime does not relate to the other provisions because it is not directed toward people crossing the border without legal permission. But the single-subject rule does not require that all provisions be so tailored or correlated. Again, Arizona courts have repeatedly found that provisions of the same act can affect different groups of people without violating the single-subject rule. In *Sample*, a provision affecting people restoring their maiden names was sufficiently related to a provision enhancing domestic violence sentences. In *Wagstaff*, the Court found a logical relationship between fingerprinting for all applicants, regardless of criminal history, to various child-related employment and enhanced punishments for those who committed crimes against children. In *Hoffman*, the provision affecting donors to political parties was tied to the establishment of clean elections rulemaking oversight. Here, it is enough that the Legislature believes the “lethal fentanyl” and the other four provisions appropriately address harms from the “unsecured border” and that Plaintiffs have not sufficiently shown otherwise.

Third, Plaintiffs claim that HCR 2060 is “log-rolling.” At oral argument, counsel for the LUCHA plaintiffs argued that HCR 2060 forces a voter to choose regulating library cards in a particular way if they want to also regulate fentanyl, or vice versa. But that (i) defines each provision too narrowly and (ii) ignores the situations where Arizona courts have approved similar choices. If Plaintiffs’ argument were valid, then the *Sample* court would have invalidated the

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measure because it would have forced someone to choose expanded child support in order to approve enhanced domestic violence sentences. And the *Wagstaff* decision to allow enhanced sentences for sex offenders would have required someone to also choose mandatory fingerprints for potential employees. The single-subject rule seeks to prevent log-rolling, but the rule only requires the individual components to fit reasonably within the act's subject. That is the case here.

Conclusion

Arizona's constitution requires HCR 2060 to "embrace but one subject and matters properly connected therewith[.]" Ariz. Const. art. 4, pt. 2, § 13. HCR 2060 is intended to refer "responses to harms relating to an unsecured border" to the people of Arizona for the November 2024 ballot. In this challenge, Arizona law requires Plaintiffs to overcome the strong presumption that the act is constitutional. Because a natural connection exists, i.e., all provisions are "responses to harms relating to an unsecured border," Plaintiffs have not met their burden to show a violation. Absent other challenges, the policies of HCR 2060 should be left to the voters.

THE COURT FINDS that HCR 2060 contains a single subject, namely "responses to harms relating to an unsecured border."

THE COURT FURTHER FINDS that all provisions of HCR 2060 reasonably relate to its subject and are matters properly connected therewith.

THE COURT FURTHER FINDS that Plaintiffs have not met their burden to show that the provisions of HCR 2060 violate the single-subject rule, Ariz. Const. art. 4, pt. 2, § 13.

THE COURT FURTHER FINDS that HCR 2060 does not violate the single-subject rule, Ariz. Const. art. 4, pt. 2, § 13, as a matter of law.

IT IS THEREFORE ORDERED denying the June 11, 2024 and June 18, 2024 *Application[s] for Preliminary Injunction*.

Because the parties agreed to combine the trial on the merits with the argument for the preliminary injunction applications,

IT IS FURTHER ORDERED denying all relief sought in the June 5, 2024 *Verified Complaint for Declaratory Judgment and Preliminary Injunction* and the June 6, 2024 *Verified Complaint* and finding in favor of the defendants in all counts.

The Legislative Intervenors are not seeking attorneys' fees because the State has not taken a contrary position. Therefore, no further action from the Court is necessary in deciding this case.

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This minute entry disposes of all outstanding claims and issues in this case. Because no further matters remain pending, the Court signs this minute entry as a final judgment entered pursuant to Ariz. R. Civ. P. 54(c).

/ s / SCOTT MINDER

SCOTT MINDER
JUDGE OF THE SUPERIOR COURT